# MAYOR AND COUNCIL AGENDA

NO. 6 DEPT.: Community Planning and Development Services / Legal DATE PREPARED: 7/18/05
STAFF CONTACT: Deane Mellander/Judy Christensen FOR MEETING OF: 7/25/05

**SUBJECT:** Worksession to review white paper on "mansionization" and provide further direction to staff as part of the comprehensive review of the zoning ordinance.

**RECOMMENDATION:** Review the white paper and direct staff to proceed as recommended below.

**DISCUSSION:** "Mansionization" is a term used to refer to the insertion of very large houses into established single-family neighborhoods. These large houses, while meeting the technical zoning standards for height, setbacks, and lot coverage, are out of character with the older, smaller houses on the neighboring lots. In the City some areas, such as the West End, have experienced a recent trend where older small homes have been bought and demolished, to be replaced by much larger new houses. Other areas in the City have lots where the land value exceeds the value of the improvements and will be subject to mansionization pressures.

The white paper details the issues involved, among which are the potential effect of property values, impact on infrastructure, neighborhood esthetics, and environmental impacts. The paper details a number of potential options for addressing the issue. Among them are: a blanket change in the residential development standards to reduce the permitted size and bulk; establishment of a floor area ratio (FAR) limit for new housing; a cubic content ratio (CCR), which takes into account height as well as floor area; increasing setbacks based on height; and daylight plane regulations. Another approach is to consider some form of overlay district that would apply a set of standards that would be compatible with the character of each neighborhood that opted for such a district.

The paper makes several recommendations to pursue. These are as follows:

1. Limit mansionization regulations to the 3 smallest-lot zones –R-60, R-75, and R-90.
2. Modify and/or add definitions for demolition and substantial alterations.
3. Establish policies and procedures for neighborhood conservation districts.
4. Consider requiring additional side yard setbacks for height above a certain level.
5. Revise the bulk standards for the smaller residential zones, especially building height regulations as discussed in the white paper.

Staff recommends that this issue be pursued in two paths. The first would be to consider a program of conservation districts that can have the development standards tailored to the needs of specific neighborhoods where they might apply. The other path would be to review the current development standards for the smaller lot residential zones and consider whether there might some changes that can be made to the general provisions that would provide some measure of control for areas that might not be subject to a conservation district. Such changes should be considered in light of limiting potential impact on existing houses.

**Next Steps:** Staff will prepare specific language based on the Mayor and Council discussion. The resulting language will be reviewed by other Boards and Commissions. The suggested provisions will be included in the new zoning ordinance.

**PREPARED BY:**

Deane Mellander, Planner III — Date: 7/19/05

**APPROVED BY:**

R. James Wasilak, AICP, Chief of Planning — Date: 7/19/05

**APPROVED BY:**

Arthur D. Chambers, AICP, Director — Date: 7/19/05

**APPROVED BY:**

Scott Ullery, City Manager — Date: 7/20/05

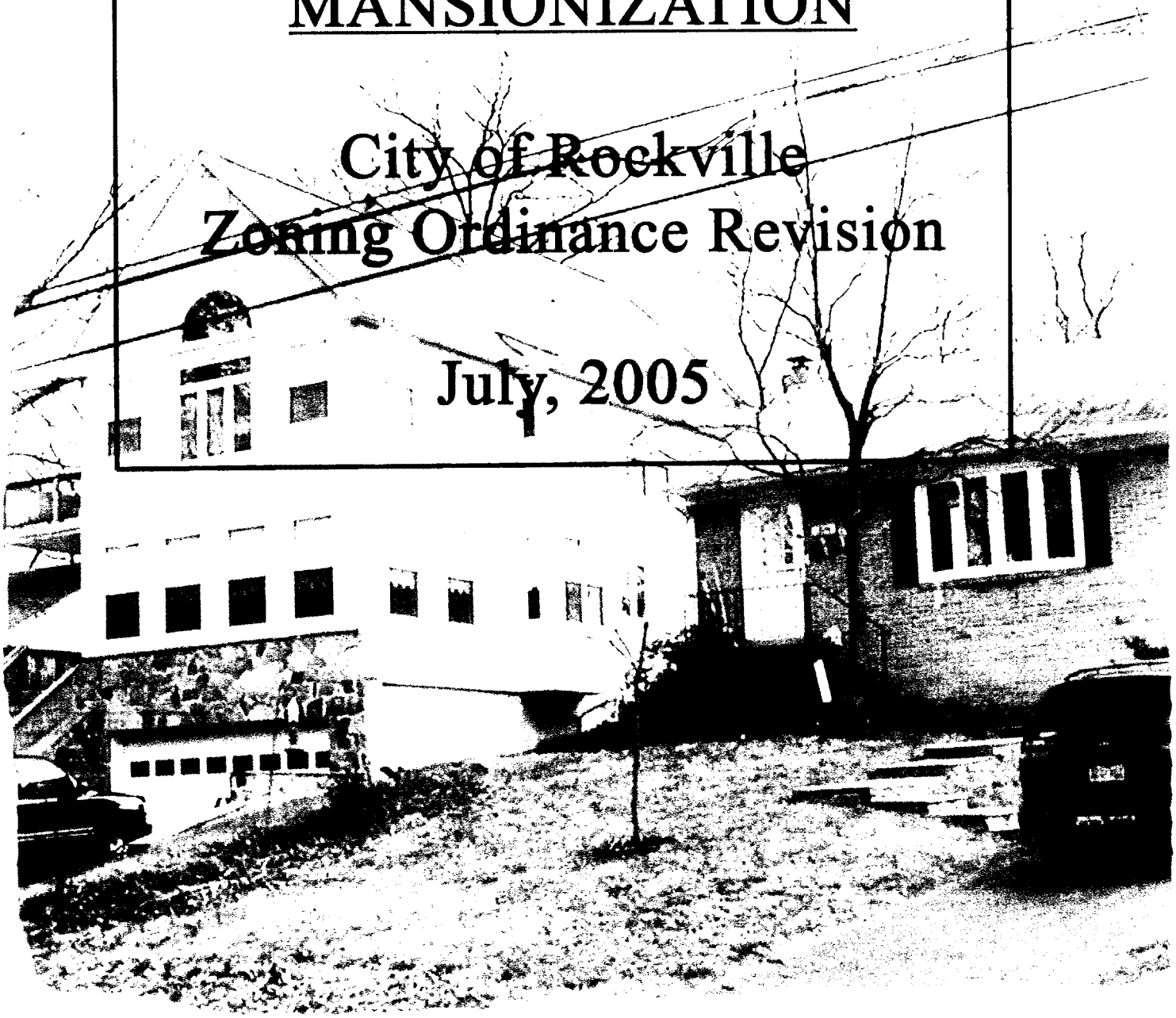
**LIST OF ATTACHMENTS:**

1. "Mansionization" White Paper

# Issue Paper
# MANSIONIZATION

## City of Rockville
## Zoning Ordinance Revision

## July, 2005



**City of Rockville**
**Zoning Ordinance Revision**
**Issue Paper**

# Mansionization

## I. INTRODUCTION

"Mansionization" is the process where existing single-family, detached homes are demolished or enlarged to create houses that are several times larger than the originals. Mansionization also occurs on infill lots where new houses do not conform to the character of the neighborhood. It is caused by a desire for modern amenities, such as large kitchens, cathedral ceilings, walk-in closets, and multiple bathrooms, that may not exist in older homes. This trend is a growing concern across the U.S. and has already had a great impact in built-out neighborhoods in Bethesda and Chevy Chase where vacant property is unavailable. Rockville is reaching built-out status and requests for demolitions to rebuild have become a regular occurrence.

**Incompatible Reconstruction**

There are a number of competing arguments on either side of this issue. Property owners state that they have the right to use or develop property as long as they are in compliance with the legal development standards. Adjacent property owners however, may lament the loss of neighborhood character and the reduction in sunlight and air movement. In addition, there can be a reduction of privacy when a 40-foot structure towers over a one-story house and yard.

On the proponent side, building new homes where there is existing infrastructure gives residents an alternative to building further out and away from businesses. This helps reduce other urban problems, specifically sprawl and increased traffic.

Mansionization is not an issue with new development in Rockville. Most new developments have strict covenants and require architectural review approval for changes to existing houses. Large houses at minimum setbacks in places like the King Farm or Fallsgrove remain in the same context as they existed when buyers purchased their home. If homeowners do not care for the home's development style, they will buy elsewhere.

Mansionization, however, is a growing occurrence in some neighborhoods and will likely intensify as the current trend for larger housing progresses. Demolition and redevelopment with much larger houses is already a common occurrence in West End Park from Forest Avenue to I-270 on the north side of West Montgomery Avenue[1].

Mansionization is primarily an issue where lots are not large enough to accommodate these large houses in an esthetically acceptable manner. It is also a potential issue in areas where the land values justify the expense of renovation or even demolition and reconstruction. This means that neighborhoods in the R-60, R-75 and R-90 zones are the ones most likely to be affected by this redevelopment process. There are no hard and fast criteria that can readily predict where mansionization may occur. However, some of the relevant factors include a high ratio of land value to improvement value; perceived desirability of the neighborhood; convenience to mass transit; convenience of the neighborhood to jobs or the central urban core. Within the City, neighborhoods other than the West End that may be susceptible to mansionization include Twinbrook, Twinbrook Forest, Croyden Park, and Lincoln Park.

Demolitions for redevelopment of new housing have been most active in the West End Park area of Rockville. This area has attracted small infill developers as the cost of a 9,000 square foot R-60 zoned lot and a house in this neighborhood ranges from $300,000 to $450,000, although it continues to climb with the housing market. In 2003, a house built in 1935 on Mannakee was sold for $350,000 with redevelopment the ultimate intention. This was the record price for a teardown in 2003. The ceiling cost for a teardown structure that allows a reasonable profit has increased to $400,000 in 2005. The average price is closer to $360,000. This is fueled by the number of new or recent resale houses in West End Park that are marketed in excess of one million dollars.

Another category of redevelopment is the home buyer who purchases a small house in West End Park or East Rockville to demolish the existing house and build a new house for their own use.

## II. GENERAL ISSUES

The mansionization issue relates to in-fill development. As stated above, the controversy is not about large houses in general. The controversy is about large houses intruding upon neighborhoods of smaller houses. Residents of any neighborhood move in expecting a degree of stability. Many buy their house not only because of the house itself, but also because of their expectation of living in a stable community. The sudden intrusion of a house out of character with the neighborhood is destabilizing in their minds, particularly if it is next-door.

The following is background information to balance the various elements and arguments that are typically used when confronting larger infill structures in lower scale, existing neighborhoods.

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1 Statistics are difficult to assemble. The City's permitting software did not capture demolition as a separate category until 2001. Prior to this, demolition was permitted as part of a building permit. Of 55 applications for demolitions from January of 2001 to January of 2005, 55 applications for demolition had been received. Prior to 2001, demolition was issued as part of a building permit.

## A. Potential Concerns Related to Mansionization

1. **Property values:** Neighbors are often concerned that new homes will hinder their own housing value and change the character of the neighborhood. Higher property values in a neighborhood may change the demographics of an area and may make a once affordable, middle class community into a high priced area that few can afford. This alteration makes current residents feel like they do not belong in what was once their neighborhood. In addition, other neighbors claim that their property value will go down because their house is now valued less than the new/expanded houses.

   Some neighbors object to new or expanded houses because they believe that their own taxes will rise as a result of the increased value of the nearby properties. Their concern may be warranted. Some jurisdictions welcome such redevelopment. The increase in property values adds to the tax base, helping to fund public infrastructure and schools.

2. **Infrastructure:** Infill may also burden the existing community's infrastructure. Utilities, such as water, sewer, stormwater controls, and electricity may have been designed to handle smaller houses and may not be able to accommodate large infill houses that would exhaust these resources.

3. **Environment:** The size of houses potentially can degrade the environment by increasing storm water runoff, removing existing trees, increasing lot coverage, and requiring more paving (of driveways, patios, etc.).

4. **Compatibility:** Large houses can be out of proportion and balance with the existing houses in the neighborhood. These new houses may be termed an "eyesore" because they do not match the architectural style of the neighborhood. The new houses often "loom" over neighboring smaller houses, especially at the minimum setback, restricting air and light and reducing privacy. The prevailing conditions were part of the original lot value and infringing on these rights threatens the overall property value and the property owner's rights. In addition to the inconvenience that the large house places on its immediate neighbors, it also weakens the character and texture of the neighborhood as a whole.

5. **Cost**: In today's market, the cost of additions or remodeling can be twice the cost of new construction. As a result, many homeowners choose to demolish instead. Demolition is less likely to retain the original character of a house than reconstruction.

## B. Potential Benefits of Mansionization

1. **Property Values:** Neighborhoods that don't improve are liable to stagnate and eventually degenerate. Viable communities are necessary to the cultural and economic well being of a city. It is to the City's ultimate benefit, as well as the neighborhood, to encourage improvement or redevelopment and maintenance of homes to maintain property values.

2. **Infrastructure:** Redevelopment in established neighborhoods may have some effect on sprawl. Instead of seeking out new developments located farther from the city, property owners will replace older homes with their own desired housing styles. Schools and other infrastructure already exists that can accommodate or be made to accommodate the home.

3. More compact development means more compact infrastructure. Infill helps reduce cost of new infrastructure because extensions to services do not need to be laid to support rural development. For example, long pipes and drains are not needed to service properties on larger and more spread out yards.

4. Although the redevelopment near the metro station and along Rockville Pike is providing new sources of housing, some property owners prefer single-family homes with yards. Likewise, many want to move into already settled communities that have close proximity to services such as transportation and commercial centers.

5. **Environmental:** Another argument to support mansionization is that it does not affect the potential amount of run-off on a property. Under current standards, a homeowner could cut down all his trees and pave virtually the entire yard. Current coverage limitations in the zoning ordinance are based on the *building* coverage, not total imperviousness. Driveways, patios, decks, etc. do not count toward the total percentage of lot coverage allowed, nor does Rockville limit the amount of a lot that can be covered with a patio or other material. Where there is open space, the Rockville City Code (§ 5-287, Property Maintenance Code) requires ground cover such as grass or mulch.

6. **Compatibility:** New development can include aesthetic touches, which may be lacking in existing structures. Zoning currently does not regulate aesthetics or require that the aesthetics of new development correspond to the character of the neighborhood. Instead, character elements and design are currently considered in changes to a site in designated historic district, as it would be in a designated neighborhood conservation overlay district that has adopted guidelines.

7. **Normal Progression**: Houses are lost due to natural causes as well. Hurricanes, fires, falling trees, and termite infestation make unanticipated changes to the structure of a house. Homeowners may wish to protect against natural deterioration by reconstruction or demolition, while remaining in their neighborhood. Permitting mansionization, therefore, would provide homeowners with options to maintain their property within their current neighborhood. Furthermore, it allows home owners to maximize the investment that they have made on their home.

## III. ALTERNATIVES

Methods have been used nationwide to control new development in existing neighborhoods and accomplish the goal of compatibility without stifling the opportunity for improvement and

expansion. No single answer has yet been found to adequately address all the concerns of mansionization. Monster homes are criticized not only for their sheer size, but also for the way in which size is further emphasized by the design of the house.

Other jurisdictions' solutions can be classified in two groups: 1) mass regulations and 2) architectural requirements. The following are some solutions that have been developed by other communities to address mansionization. They are listed in order from least aggressive to most aggressive. Some of these options appear to be more applicable to Rockville than others.

## A. Mass Regulations

Mass regulations control the scale of the home to its context. When a monster home is constructed in a neighborhood of small lots, the impact of mass is maximized. These regulations help to limit the impact of large structures.

1. **Building Envelope Regulations**. A traditional means of controlling home size is by specifying lot coverage limits (setbacks and percentage of usable space). Decreasing the allowed lot coverage and increasing building setbacks achieve a smaller envelope.

   The basic matter that needs to be addressed is the relationship between the large house and its immediate neighbors, particularly along the side lot line. A sliding scale is needed to adequately accommodate the new house on different sized lots. A 5,000 square foot house on a half-acre lot with at least a 13-foot setback is not as intrusive as the same house on a 6,000 square foot lot with an 8-foot setback. It should also be understood that while a large lot can usually support a large house without infringing on its neighbors, it should not be developed with the intent to redevelop the lot for two houses in that same space where subdivision is a possibility.

   Smaller bulk is achieved, overall, by decreasing the height or number of stories allowable. Some cities have reduced standard height restrictions to produce a shallower roof pitch, but still making a second-story addition possible. Regulations on height can be placed on a number of things. Besides total building height, height restrictions can be placed on attic floor levels, basements, and detached garages.

   The percent of all building footprints or building coverage, allowed on a lot in Rockville ranges from 25% to 35% of the lot square footage. For Rockville's smallest permitted new lots, 6,000 square feet, this allows 2,100 square feet for each story. Rockville allows a height of 35 feet, measured to the midpoint of a gable roof. The midpoint of a very steep roof can be 8-10 feet, which allows another 8-10 feet above it or close to 45 total feet in height. By these standards, a new home on a 6,000 square foot lot with an attic and basement can legally be built in excess of 8,000 square feet and be very tall with an FAR of 1.3. Currently, new single-family home subdivisions have been built via the Planned Residential Unit method, and other than the two country clubs there are no large undeveloped parcels remaining. An overall change to the zoning standards in height,

setback and lot coverage would primarily affect new houses and large additions in older established subdivisions.

2. **Floor Area Ratio (FAR).** FAR regulations are one of the most common techniques for controlling oversized homes. Floor area ratio is a ratio of the gross square footage of the building or buildings on the lot divided by the square footage of the lot. FAR's allow planning departments to control the overall square footage of a home, including second-plus stories, as well as accessory structures such as garages and covered porches. Many communities implement a sliding scale for FAR's to meet the individual needs of the individual zoning districts, instead of one set FAR for the entire city.

   Rockville has used FAR values for commercial buildings in urban commercial areas where front, side and rear setbacks are not the primary consideration. A simple lot percentage for the footprint of all buildings combined with the allowed height and setbacks has been used in Rockville to define the building envelope, not FAR.

   FAR limits alone will not solve the problem. While FAR controls the bulk, it does not limit the amount a large house may impede on a neighbor. Regulations controlling height and setbacks must also be included in order to be effective.

   Adopting an FAR standard is not the best method for Rockville. Areas of Rockville most vulnerable to mansionization are generally urban R-60 to R-90 lots ranging from 5,000 to 10,000 square feet with lot widths of 50 feet to 70 feet. With narrow lot widths, a tall building could easily be built within FAR standards and still cause problems to adjacent neighbors.

3. **Cubic Content Ration (CCR).** Cubic content ratios are similar to the floor area ratio. A CCR value, as used in Aspen, Colorado, considers the height of the building as well as the gross square footage of the building and the lots.

   Like FAR, CCR is not a practical option for Rockville. Because there is no one-size-fits-all standard that can be applied to effectively address the concerns of mansionization, a better option would be to apply design guidelines on a neighborhood-by-neighborhood basis.

4. **Second Story Regulations**. Since mansionization often includes the addition of a second story, many mass regulations have begun to regulate the size and setbacks of second stories. This type of regulation leads to a stepped appearance, which limits the overall bulkiness of a larger house.

   Second story ratios are placed in relation to the size of the first floor. Like FAR regulations, these ratios are often provided on a sliding scale for the various lot sizes (as seen in two examples below). The following chart is an example of some second story ratios.

| Percentage Allowable | Ratio Comparison |
|---|---|
| 35% or 600 sq. ft. (whichever is greater) | Of the first floor |
| 50% | Of the first floor for lots under 5,000 sq. ft. |
| 75% | Of the first floor for lots over 5,000 sq. ft. |
| 60% | Of the first floor |

In addition to, or as an alterative to ratios, some communities have imposed a second-story setback requirement to make the house appear less bulky. These could be placed on front or side setbacks. For example, where there is a five-foot side setback for the first story, a 10-foot side setback would be placed on the second story. Both setbacks are measured from the property line.

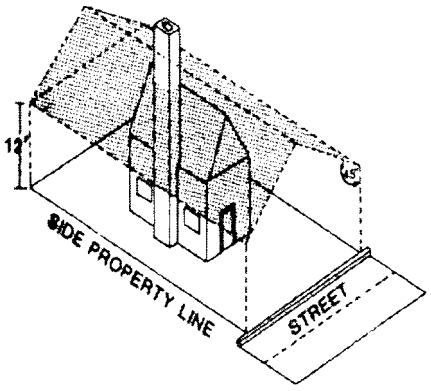
**Second Story Setback**

The drawback of a second-story setback or ratio is that a one-story home that is reconstructed may not be built to bear the load of a second story that is not flush with existing walls. A second-story addition can, therefore, be more architecturally challenging and more expensive than a simple second story on a new house. Nevertheless, second story ratios and setbacks have been shown to effectively minimize bulk by breaking up the façade of a home.

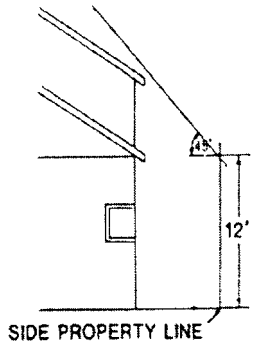
5. **Daylight Plane Regulation**. A complicated regulation is a daylight plane requirement. Drawing a vertical line from the side property line to a specified height on a house derives a daylight plane. An angle is then drawn off this line, which continues until it meets the angle drawn from the opposite side of the house (see illustration below). The more restrictive the height/angle used, the more effective the daylight plane is at reducing mass. The daylight plane creates an imaginary envelope around the sides and top of a house that limits its height and width. Any part of the house, which protrudes out of this envelope, is considered to be an obstruction that can reduce the solar access of the adjacent house.

   With regulating daylight planes, it is important to include both exemptions and demonstrative illustrations. Exemptions may include dormer windows, gables, fireplaces, and antennas. Illustrations may include something like the following:

THE DAYLIGHT PLANE



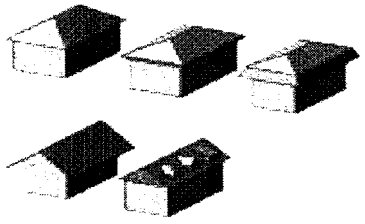

CROSS SECTION OF
THE DAYLIGHT PLANE




Daylight planes confusing alternative, that staff does not recommend implementing. In practice, the daylight plane serves much the same purpose as a second story ratio or setback because it forces the second-story to be stair-stepped in. Daylight plane regulations, however, are more complicated to implement. The plane must be calculated and permitted exemptions reviewed on a case-by-case basis. The plane is particularly challenging to calculate on slopes, where it must be done in increments. The daylight plan must be closely keyed to the side setbacks of a home, as the point of which the angle intersects the home is greatly influenced by the distance of the home from the side property line. The further the home is from the property line, the taller the addition may be. Thus, the daylight plane is most restrictive in homes with small side setbacks.

## B. Architectural Requirements

While architectural requirements protect neighborhood character, they can also help prevent look-alike areas. The key to such requirements is to strike the right chord. The language cannot be too restrictive, allowing for the imagination of architects, but not unconstitutionally vague either.



**Pitched Roof Options**

1. **Rooflines**. Major rooflines on a property can accentuate the mass of a building or lead to a monotonous street if constructed the same way on a number of houses along a block. As a result, architectural requirements can impose a change in roof plane, a mix of roof styles or materials, and a number of decorative options.

2. **Entries**. Some cities require clearly defined, prominent primary entrances that feature some form of design element. Design elements may include decorative doors; porticos, arches, or pillars; or peaked roof forms.

3. **Façade.** Mass can be accentuated when a home lacks definition in its façade, making it look square and bulky. Unbroken multi-story elements, such as towers, entryways, and

walls can also accentuate mass. Some communities require that façades be broken up, that a mix of building materials be used, or that decorative windows or doors be installed to reduce the impression of mass.

4. **Windows.** Some cities ban windows on the side walls of home to protect the privacy of neighbors. Banning windows is unnecessarily restrictive, however, as there are many window styles and glass types currently available. Opaque glass, including frosted and tinted glass, patterned glass, and glass blocks can afford both light and privacy.

## IV. IMPLEMENTATION TECHNIQUES

In addition to applying mass regulations and architectural guidelines, some cities have initiated additional review requirements or overlay zoning requirements to protect against mansionization problems.

**A. Additional Review**. To ensure adequate application of bulk requirements, some jurisdictions have initiated additional review and regulation requirements for additions of second stories or any expansions greater than a set percentage of the existing building area. Some communities even require a notification and comment period for adjacent property owners when two-story construction is proposed.

For example, in Menlo Park, California, a two-tier system of review was established. If construction meets the requirements for lot area, floor area limits, lot coverage, setback, daylight planes, permeable surface, and other basic elements, an applicant can merely file for a building permit. If, however, the owners of adjacent properties approve, more permissive standards could be applied (up to a set limit) including setback encroachments, and more daylight plane flexibility upon review by staff. Failure to gain neighbors' approval requires approval of necessary permits by the Planning Commission.

**B. Overlay Districts:**

1. One solution is to implement historic districts, where eligible and appropriate. Historic districts aim to protect a community's historic significance in terms of the contribution to the national, state or local pattern of history. Design guidelines which restrict mansionization are implemented and enforced to ensure protection of these resources. Alterations to the house are reviewed by a historic district commission, which determines if they are appropriate to the community based on established criteria.

   Of the properties identified for potential mansionization expansion in Rockville, only a small number are currently designated in an historic district. While current exterior alterations guides for Rockville's Historic Resources regulate exterior materials, roofing, windows and doors, and color selection, these may or may not be the types of regulations to apply throughout the city. Under the guidelines, new additions must respect the building's character and protect the neighborhood's feel. New additions are encouraged

in back and not up. While these are potential guidelines that Mayor and Council may wish to pursue, if historic district overlay is chosen, these guidelines will be further reviewed for their impact on mansionization.

2. Conservation overlay districts are another technique that imposes zoning and development standards that reflect the existing conditions. This works well in an architecturally cohesive community with the same basic character, height of buildings, and style. It does require research and documentation of existing conditions to back up the new development standards.

   Annapolis has imposed conservation districts with its Eastport District, which sets a height standard for each block based on the existing residential height. Cities in Kentucky have used neighborhood conservation districts in both urban and suburban communities. In both cases, the adopted guidelines deal with lot size, configuration and lot layout as well as setbacks, height, lot coverage and architectural design. (Some examples are: prohibiting front-loading projecting garages in areas where detached rear garages predominate; and prohibiting cul de sac subdivision where square lots fronting the street are normal.)

   These districts may be implemented either by guidelines or adopted as regulations, thus having the force of law. Newport Virginia has an intense educational program that persuades new builders to construct compatible new homes and additions via a design handbook. This tends to work best, however, if the area is largely owner-occupied and not the target of individual infill developers.

   Applicability:

   Many subdivisions were created as approved Planned Residential Unit Developments or Comprehensive Planned Development that have established guidelines and review procedures for additions and new constructions. Other subdivisions have Homeowners Association Review for exterior modifications and new construction. These areas do not need an additional overly district and review process. Examples are: Some portions of Rockshire, Fallsmead, New Mark Commons, Carter Hill, Fallsbend, Flint Ledge Estates, Rose Hill Falls, Rose Hill, King Farm and Fallsgrove.

   Mansionization controls may be appropriate for older areas still covered by the traditional Euclidian zoning. This would include West End Park, East Rockville areas including Lincoln Park, College Gardens and Twinbrook. Community support is essential. Conservation districts do not succeed unless the community actively supports the program. Some incentives, such as workshops on design and the process may help. For many neighborhoods, stability and clear future direction are incentive enough.

C. **New Definitions and Permitting Requirements**- An additional alternative to minimize the impact of mansionization is to redefine "demolition" and "substantial alteration" to

encourage less destruction to the original dwelling and promote appropriate additions as an alternative to complete demolition.

Under current Rockville standards, reconstruction requires only a building permit. If there are encroachments or the building is too high, Planning Staff will delay issuance of a permit until the problem is resolved. Additionally, the current definition of reconstruction is vague, leaving no set standard to apply throughout the city.

With regard to nonconforming uses, there is a more defined guideline for reconstruction. The Zoning Ordinance has a provision that if more than 50% of a nonconforming structure is destroyed or damaged, then any nonconformity must be corrected. There is no specific section in the Zoning Ordinance that address reconstruction. Section 25-164 addresses the fact that the only structural alteration that may be made to a structural nonconformity is their removal. Section 25-165 provides for its removal if more than 50% is damaged or destroyed.

## V. CURRENT STANDARDS

The tables of development standards that are currently applied to construction or reconstruction from § 25-311 of the Zoning Ordinance are attached at the end of this document for reference.

## VI. RECOMMENDATIONS

**A.** The first policy under the Housing section of the Master Plan is to encourage the maintenance and upgrade of existing housing stock. It is, therefore, not the goal of the city to restrict maintenance, but certain steps are needed to protect against the negative implications of mansionization. There is no one-size-fits all answer the mansionization issue. After evaluating the pros and cons of mansionization, the staff makes the following recommendations for the Mayor and Council's consideration.

1. Limit any mansionization regulation to the 3 smallest-lot zones—R-60, R-75, R-90. Beyond these, the lot sizes and related setbacks are large enough that the perceived impact is substantially reduced.

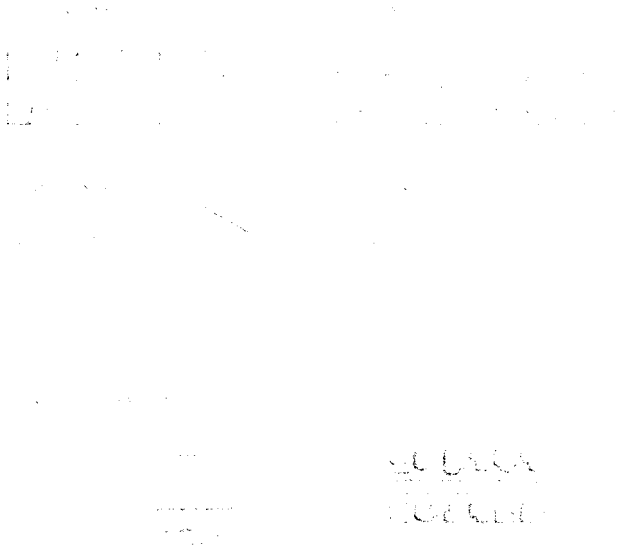
2. Modify and add definitions for demolition and substantial alteration. Current definitions are too lenient and thus must be adapted for today's values. Substantial alteration should include the tear down of more than 50% of the original walls. Demolition should include teardown of the roof, foundation, and two or more of the original exterior walls. Additionally, leveling the house to the foundation (keeping the foundation intact) should also be considered demolition.

3. Establish policies and procedures for the establishment of neighborhood conservation districts. Such a process is currently being considered for the Lincoln Park area as a part of the neighborhood planning efforts currently under way. Such districts should include

design guidelines to provide flexibility in design and siting. This will give property owners more leeway with their designs and alterations, which in turn creates a more interesting streetscape and avoids monotonous "cookie-cutter" homes. The City might offer examples and suggestions for compatible style elements and alterations. This will also speed up the process if the guidelines can suggest alternatives that do not require extensive review.

Suggested guidelines include the following:

a) Adequate flexibility to accommodate topographical features;
b) Adequate setbacks to maintain all four facades of the dwelling;
c) Setbacks to compensate for shadow casting;
d) Area limitations for accessory uses, such as garages, sheds, and pools; and
e) Roof and entry alternatives.



**Example of Design Guidelines**

The neighborhood conservation districts should be initiated by the neighborhoods themselves, rather than be dictated by the City. The process should likely be similar to the current process for designating historic district zones in the City.

4. As a potential adjunct to the conservation district concept, consider requiring additional side yard setback for height above a certain level. Our initial recommendation would be two foot of additional side yard setback for each foot of height above 25 feet. Twenty-five feet is high enough to accommodate a typical two-story house. The recommended two-to-one ratio would mean that a 35 foot high building would have to be set back an

additional 20 feet beyond the minimum side yard setback on each side. On a minimum-width 60-foot R-60 lot, the maximum height house could be only 20 feet wide, certainly an undesirable design.

5. As part of the comprehensive review of the zoning ordinance, revise bulk standards in zoning code for smaller residential districts, especially height requirements and the measurement of height.

**B.** Although not directly a part of this issue, the Mayor and Council may wish to consider make existing historic houses non-conforming that may not meet today's zoning standards. These houses are also considered structural nonconformities, and cannot be replaced in kind if substantially damaged. Since these structures help define the character of the historic district, they should be allowed to be replaced in kind.

## VII. CONCLUSION

There are two sides to consider with regard to mansionization, potential costs and benefits. Regardless of whether mansionization is deemed a threat or a natural cycle for communities, it is a matter deserving attention. If ignored, larger in-fill homes could suffocate a community quickly and erase the elements that make that area unique. Communities must work with their residents, government, and outside developers to determine the best approach in ensuring that they do not lose the character of their neighborhood.

In-fill housing may help discourage sprawl; however, it will not eliminate the problems of sprawl altogether. It is possible to control the scale of the in-fill housing, while at the same time discouraging sprawl. It is possible to dissuade people from building structures that take up more space, and encourage more luxurious models that repeat the scale of the buildings around them. The customized guidelines made for each neighborhood can assist with this negotiation. Likewise, the staff does not want the community to lose the opportunity for improvement. Improvements can be made to the homes and lots without competing with the existing character of the neighborhood. It is the responsibility of the city to make those alternatives apparent and to educate the public on appropriate design standards.

Aesthetics can be regulated when the appearance contributes to the district's character. The staff suggests designating conservation districts in order to preserve the unique architectural and historic characteristics of certain neighborhoods. The goal of these districts is to recognize when a community shares certain elements, whether they are architectural or historical, and offer them protection to save these elements.

The ultimate goal is to respect the current property owners' community while still allowing for appropriate growth and change. Rockville does not seek to eliminate property rights or stifle the community's wishes to grow and improve. The problem is a matter of scale and awareness of design elements. A delicate balance must be made to support the desired house size without infringing on the rights of its neighbor. The owners should also seek to build a home that blends

well with the rest of the architecture on the street. Guidelines will help developers and private property owners with their decisions to rebuild or remodel. Awareness and education is the best tool.

**ATTACHMENTS:**

Pictorial Appendix
Table of Residential Development Standards
Map: Recent Demolition Permits
Map: R-60 Properties by Value and Size

**Background Information**

Nasser, Haya El. "Mega-mansions' upside: They help reduce suburban sprawl." USA Today. March 13, 2002.

Barnes, Linna et al. "A Pictorial Study of Problems with 'Story' and 'Height of Building' in the Montgomery County Zoning Ordinance." April 20, 2004.

"Additions and New Construction." Raleigh Historic District Commission.

Ramshaw, Emily. "The McMansion Next Door." The Dallas Morning News. May 1, 2005.

Samuelson, Robert J. "Homes as Hummers." The Washington Post, July 13, 2005

Miller, Julia H. "Neighborhood Conservation Districts." The Alliance Review. November/ December 2003.

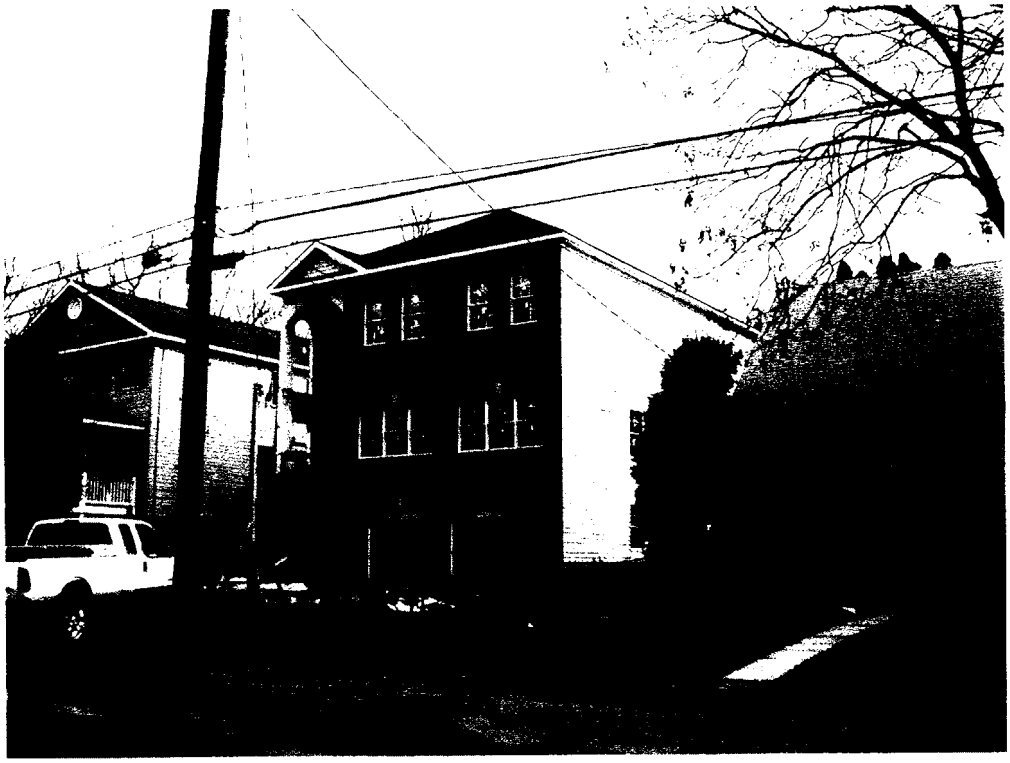
S:\Zoning Ordinance Revision\Issue Papers\residential.doc

# Photo Appendix
# Examples of Large-Scale Residential Redevelopment In Rockville

Picture showing the houses at 515 and 517 Beall Avenue

Picture of new construction at 518 Beall Avenue. Rise in topograpy helps lessen the impact of the new house.

The two pictures on this page show the contrast between the older house and new construction at 525 Anderson Avenue.

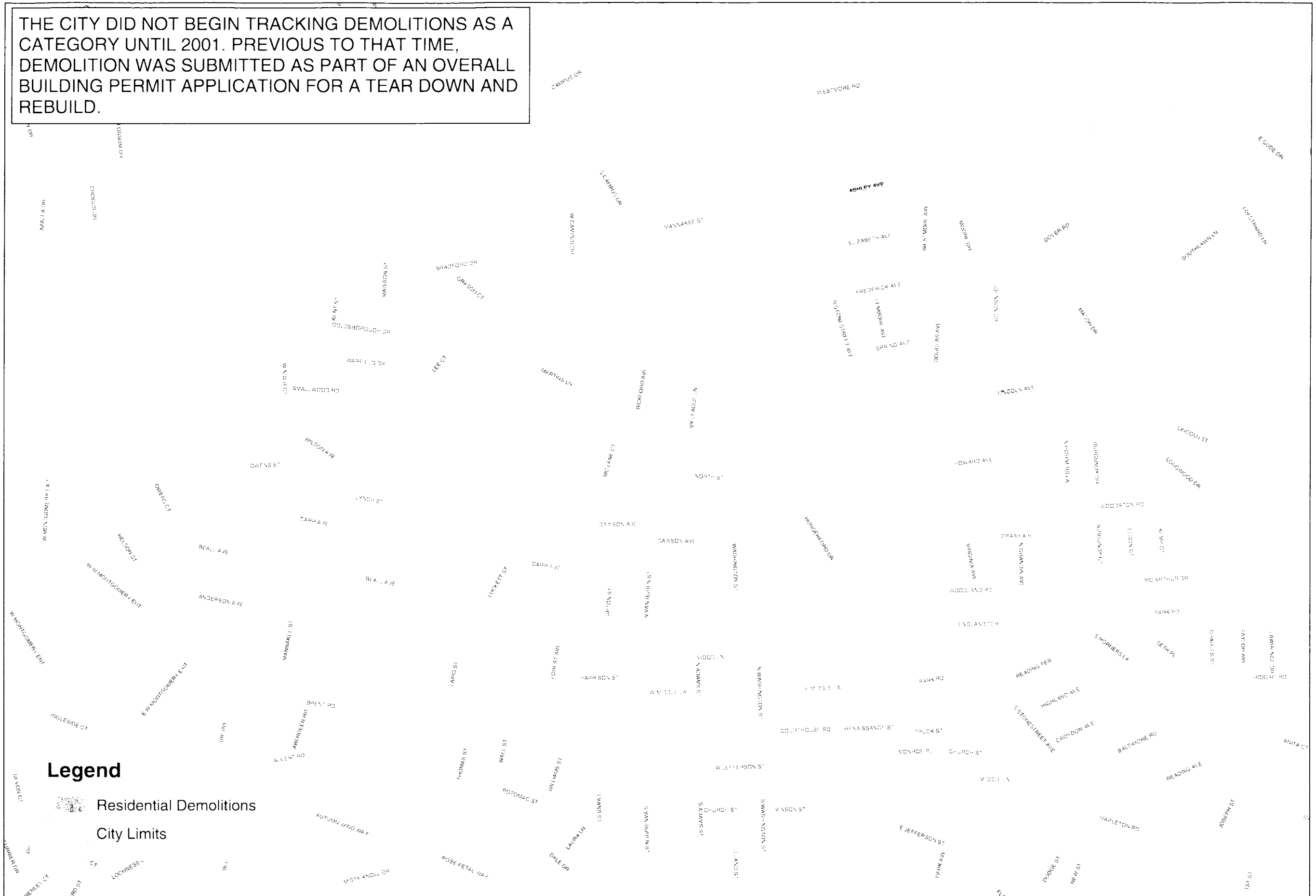


View of the houses at 530, 532 and 534 Beall Avenue. The architectural design is at variance with the old neighborhood.

## I. DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONES

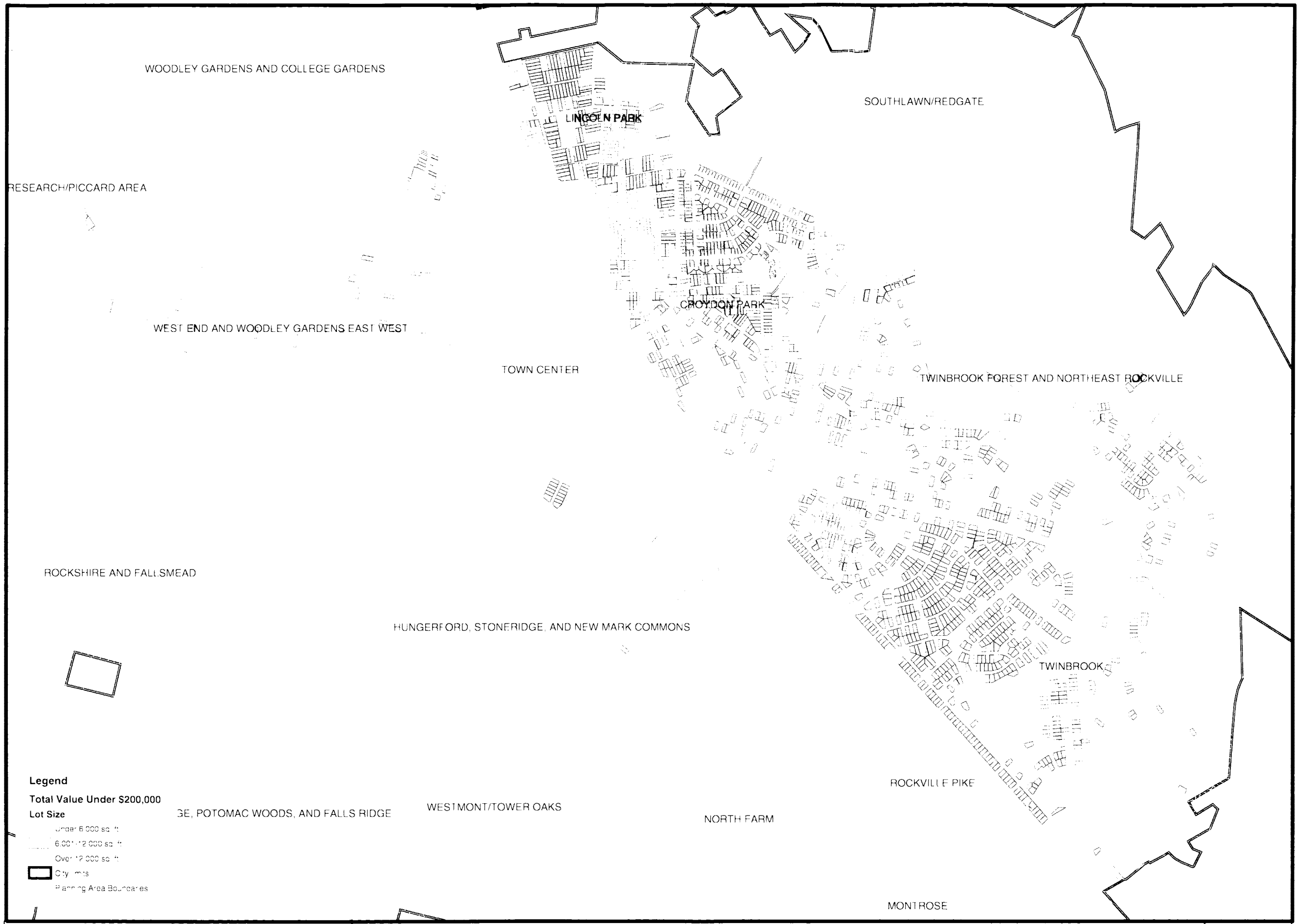
| MAIN BUILDING | | | | | | | | | | | | ACCESSORY BUILDING | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | Minimum Setback Requirements (7) | | | | | | | | Minimum Setback Requirements | | | | | | |
| | | | | Front | | Side | | Rear (Feet) | Minimum Lot Width | | Maximum Height | | Side | | | | Maximum Height | |
| Zone | Minimum Zone Area (Aggregate of Contiguous Lots) | Minimum Lot Area | (1) Maximum Lot Coverage | Normal Minimum | (6) Minimum Where Established Setback Exceeds Normal | (2) Side Street Abutting | Land Abutting | Minimum Depth | At Front Setback Line | At Front Lot Line | Not More Than Stories | Not To Exceed Feet | Front | Side Street Abutting | Land Abutting | Rear | Rear Yard Coverage | Not More Than Stories | Not To Exceed |
| R-E | — | 40,000 sq. ft. | 15% | 50′ | Established setback up to 100′ | 30′ | 20′ | 50′ | 150′ | — | — | 40′ | All accessory buildings must be located in the rear yard as defined herein | 30′ | 3′ | 3′ | 15% | 1 | 15′ |
| R-S | — | 20,000 sq. ft. | 25%(8) | 35′ | Established setback up to 100′ | 25′ | 13′ | 35′ | 100′ | — | — | 40′ | | 25′ | 3′ | 3′ | 25% | 1 | 15′ |
| R-150 | — | 15,000 sq. ft. | 25% | 35′ | Established setback up to 60′ | 30′ | 13′ | 30′ | 90′ | — | — | 40′ | | 30′ | 3′ | 3 | 15% | 1 | 15′ |
| R-90 | — | 9,000 sq. ft. | 25% | 30′ | Established setback up to 60′ | 20′ | 11′ | 25′ | 80′ | — | — | 35′ | | 20′ | 3′ | 3′ | 25% | 1 | 15′ |
| R-75 | — | 7,500 sq. ft. | 35% | 25′ | Established setback up to 50′ | 20′ | 9′ | 20′ | 70′ | 40′ | — | 35′ | | 20′ | 3′ | 3′ | 25% | 1 | 15′ |
| R-60 | — | 6,000 sq. ft. | 35% | 25′ | Established setback up to 50′ | 20′ | 8′ | 20′ | 60′ | 35′ | — | 35′ | | 20′ | 3′ | 3′ | 25% | 1 | 15′ |
| (4) R-60 Qualifying Undersize Lots | | 5,000 sq. ft. | 35% | 25′ | Established setback up to 50′ | 20′ | 7′ | 20′ | 50′ | 35′ | — | 35′ | | 20′ | 3′ | 3′ | 25% | 1 | 15′ |
| R-40 | | 4,000 sq. ft. | 40% | 25′ | Established setback up to 50′ | 25′ | 10′ | 20′ | 40′ | — | — | 35′ | | 25′ | 3′ | 3′ | 25% | 1 | 15′ |
| R-40 Detached Dwelling Unit | — | 6,000 sq. ft. | 35% | 25′ | Established setback up to 50′ | 20′ | 8′ | 20′ | 60′ | 35′ | — | 35′ | | 20′ | 3′ | 3′ | 25% | 1 | 15′ |
| R-30 | — | 3,000 sq. ft. per apartment d.u. 4,000 sq. ft. per townhouse | 25% | 25′ | Established setback | 25′ | 30′ | (3) ½ building height but not less than 30′ | 150′ | | 3 | 45′ | | — | — | — | — | — | |
| R-30 Development Option on Lots of 5 or More Acres | — | 3,000 sq. ft. per apartment d.u. 4,000 sq. ft. per townhouse | 25% | (3) 25′ plus 3′ for each 1′ in building height over 45′ | Established setback | (3) 30′ plus 1′ for each 1′ in building height over 45′ | | (3) ½ building height plus 3′ for each 1′ in building height over 45′ | 150′ | — | 7 | 75′ | | — | — | — | — | — | — |
| R-20 | — | 2,000 sq. ft. per d.u. | 30% | 25′ | Established setback | (3) ½ building height but not less than 30′ | | (3) ½ building height but not less than 30′ | 150′ | — | 3 | 45′ | | — | — | | — | — | — |
| R-20 Development Option on Lots of 5 or More Acres | | 2,000 sq. ft. per d.u. | 30% | (3) 25′; plus 3′ for each 1′ inz building height over 45′ | Established setback | (3) ½ building height plus 3′ for each 1′ in building height over 45′ | | (3) ½ building height plus 3′ for each 1′ in building height over 45′ | 150′ | — | 7 | 75′ | | — | — | — | — | — | |
| R-H | 4 acres | Efficiency: 600 sq. ft. 1-bedroom: 650 sq. ft. 2-bedroom: 690 sq. ft. 3-bedroom: 880 sq. ft. | 30% | 30′ | — | 30′ | 30′ | 30′ | — | 200′ | — | 110′ | | | | — | — | — | — |

THE CITY DID NOT BEGIN TRACKING DEMOLITIONS AS A CATEGORY UNTIL 2001. PREVIOUS TO THAT TIME, DEMOLITION WAS SUBMITTED AS PART OF AN OVERALL BUILDING PERMIT APPLICATION FOR A TEAR DOWN AND REBUILD.




# CITY OF ROCKVILLE
DEPARTMENT OF COMMUNITY PLANNING AND DEVELOPMENT SERVICES

# RESIDENTIAL DEMOLITIONS SINCE 2001




City of Rockville
Department of Community Planning and Development Services

# R-60 Properties by Value and Size

ATTACHMENT 1







# Mega-mansions' upside: They help reduce suburban sprawl

*Wed Mar 13, 8:46 AM ET*

*Haya El Nasser USA TODAY*

HINSDALE, Ill. -- In this tony Chicago suburb, 100 aging homes a year fall to the wrecking ball. One by one, mansions spring up in their place, squeezing onto small lots and towering over neighbors' modest Tudors and ranches.



This "tear-down" mania has been sweeping large metropolitan areas for years, rejuvenating old suburbs close to central cities. Preservationists and many longtime residents have decried the trend, complaining about the destruction of old homes and neighborhood character and deriding tear-downs as bash-and-builds, scrape-offs, starter castles, monster homes and McMansions.

But now, a politically incorrect view is spreading among some housing experts and urban planners: Tear-downs are good because they discourage sprawl.

The debate is intensifying in communities from the New Jersey shore to lakefronts around Minnesota's Twin Cities, tree-lined streets in Denver and

California's Silicon Valley. Some experts argue that tear-downs fulfill the principles of "smart growth" because they:

* Don't eat up farmland and open space. Tear-downs allow people to build modern homes in areas that already have roads, schools, police and fire services.

* Lessen traffic congestion. Tear-downs keep people who want big homes closer to cities where they work, often along mass transit lines.

* Revitalize older suburbs. Wealthy homeowners often leave neighborhoods when housing becomes obsolete. Tear-downs bring wealth back in.

Pro+ con - gentrification

* Encourage walking to stores and schools. Older suburbs often have small downtowns, corner stores, neighborhood parks and schools.

"These are all reasons to love the monster home," says Karen Danielsen, a housing policy economist with the National Association of Home Builders, which supports residential construction in suburbs and cities alike. She touts the trend in the May issue of *Planning* magazine in an article she wrote with her husband, Robert Lang.

"Either way, these folks are building big homes," says Lang, director of the Metropolitan Institute at Virginia Tech in Alexandria, Va. "You can have them do it where it does some good, or they can go on building them as they have been for years way out there where the corn grows."

Lynette and Tom Lovelace expect to move into their 4,500-square-foot custom home in Hinsdale this fall after leaving a subdivision about 10 miles farther out.

"I'm fascinated with the idea that I can actually walk to buy a gallon of milk," she says.

Now, "I have to get in a car to get anywhere."

## Old money vs. new

The anti-sprawl benefits of tear-downs are compelling, but they're not an easy sell.

Like other development issues -- from growth boundaries around metropolitan areas to stricter zoning and construction moratoriums -- tear-downs pit old neighbors against new, preservationists against builders. Tear-downs also intensify the clash of classes, the rich against the middle class, old money vs. new. Local governments are caught in the middle, balancing property rights, concerns of longtime residents and the need to boost their tax base.

Preservationists want to stop sprawl, but they hate tear-downs.

"I don't see any redeeming value in the tear-down phenomenon," says Richard Moe, president of the National Trust for Historic Preservation.

"These tear-downs almost inevitably lead to the destruction of community. These (old) homes can be restored, can be renovated, can be added on to."

But many well-heeled homebuyers eager to move closer to cities want no part of old houses.

"I can't live with things that are going to have to be redone," says Lynn Corsiglia of Hinsdale. "I'm not into wiring, redoing roofs and refinishing original floors. I see the houses that are being torn down as houses that *should* be torn down."

Moe and housing advocates say that tear-downs inflate the value of neighborhood real estate so much that middle-class families no longer can buy homes in the communities where they grew up. The tear-down "Rule of Three": The new house will be three times as big and cost three times as much as the old house.

Don Chen, president of Smart Growth America, a coalition that wants to control sprawl, recognizes some benefits of tear-downs. "They breathe new life into old neighborhoods," he says. But he says tear-

downs don't help communities encourage the development of affordable housing.

The growing popularity of tear-downs "creates some problems," acknowledges James Hughes, head of the Bloustein School of Planning and Public Policy at Rutgers University. But sharply higher property values and neighborhood friction are preferable to "problems of decline and housing abandonment," he says. "Some of the housing stock really is obsolete in terms of what the elite and even the middle class wants today. They may have some charm because they were built in the '20s, but they really don't meet the tests of today's market."

Americans love big homes. The typical post-World War II tract house was barely as big as today's master-bedroom suites: his-and-hers walk-in closets, sitting rooms and giant bathrooms. According to the National Association of Home Builders, only 7% of new houses in 1984 were larger than 3,000 square feet. By 2000, the number had jumped to 18%.

The demand for big homes has pushed people farther from cities and into the countryside where there is space to build big. But that push has clogged highways and stretched commutes. In a dramatic shift in values, many people no longer want to be isolated from stores and schools. They want to live in a place with Norman Rockwell sensibilities and 21st century amenities -- a Starbucks, barber shop, grocery store and flower shop all within walking distance.

In the Chicago area, almost all the communities with flourishing tear-down business are closer-in suburbs along train lines: Hinsdale, Clarendon Hills, Downers Grove, Glen Ellyn and Elmhurst. In the Minneapolis-St. Paul area, homes are being torn down along the shores of Lake Owosso in Roseville, just over the city line. Another hotbed: Arlington, Va., across the Potomac River from Washington, D.C. In Florida, it's happening in ritzy Winter Park, outside Orlando.

Close-in suburbs are prime territory for tear-downs because of their location and because many of their residents are getting old. When they die or move away, the homes they leave behind are snapped up by developers.

"There are almost no vacant lots in Hinsdale," says builder Tim Thompson, who demolishes old houses and builds some of the town's most exclusive custom homes. Driving down Bruner Street in the less pricey southwest part of town, he points at a stretch of houses and says: "All these will come down."

Land in Hinsdale is in such demand that people are paying $1.4 million for an old 3,000-square-foot house. After tearing it down, they're building a 5,000-square-foot house for $3.5 million.

"I like living in an old town in a new home," Corsiglia says. "The newer the better." After tearing down an old home, Corsiglia and her husband, John, enjoy a 5,000-square-foot house with five bedrooms, three full baths, two half-baths, a study and the obligatory big kitchen. John Corsiglia, an information technology consultant, can get to downtown Chicago in 25 minutes by car, 20 by train.

"We got way more house for our money," says Barbara Schwartz, a Hinsdale mother of five. "The community is worth all the land we gave up."

**Town reaps benefits**

In Hinsdale, founded in 1877, more than 1,100 houses -- one-fourth of the total -- have been built on previously developed lots since 1986. The town's finances have vastly improved as higher real-estate values have led to higher property taxes.

Hinsdale (population 17,349) is one of the smallest of 46 U.S municipalities awarded the top AAA credit rating by Standard & Poor's last fall. That distinction by the financial analyst and rating service allows Hinsdale to borrow money at lower interest rates. S&P cited an increase in Hinsdale's assessed property values of almost 6% a year in the 1990s and attributed the rise partly "to active tear-down of older housing to make way for larger homes."

Despite the windfall, Hinsdale officials are careful not to endorse tear-downs.

There are reasons why the issue is so delicate. For decades, zoning laws in older suburbs allowed for construction of good-size homes on small lots. There were few problems with neighbors because most people wanted big yards. Now, many people are building as big as zoning allows because they want more house than garden.

Many communities have enacted "mansionization" ordinances to limit the height and size of new homes. In nearby Glen Ellyn, where 60 homes were torn down last year, new houses can occupy no more than 20% of the lot.

In Hinsdale and other Chicago suburbs, tear-downs sometimes antagonize neighboring homeowners. At a recent public hearing in Oak Park, 30 residents complained about one house going up on their street. "They said the house makes the house next door look like a dog house," says Jean Follett, a member of Hinsdale's Historic Preservation Commission. "It's out of scale with what's next door, what's across the street, what's behind it."

**'Creating a new ghetto'**

Hinsdale has always been expensive. But not Elmhurst to the north. One of Chicago's old railroad suburbs, the town historically has been largely working class. The homes are modest and set far back from the street -- the dream tear-down lot.

Home prices have soared about 60% since 1993. Builders are paying about $325,000 for a tear-down, then selling a new home on the same lot for more than twice that.

"The economics are unbelievably compelling" -- except for middle-class buyers who want to move to Elmhurst, Follett says. "We're creating a new ghetto. We're pushing affordable housing into the outer fringes of suburbia."

But Virginia Tech's Lang says that building expensive homes next to post-war bungalows creates mixed-income neighborhoods and distributes wealth across a metropolitan area rather than concentrating it in newer suburbs, he says.

In exclusive, long-established communities such as Hinsdale, however, change is not easily accepted, especially when fueled by new wealth. Many of the town's new residents are young bond traders.

For longtime residents, seeing old friends' homes destroyed is painful. "I can't stand it," says Barbara Clarke, 75, who lives in a home built in 1951. Next door, a 1920s Cape Cod was torn down and a bigger house went up, blocking Clarke's view of the sunset. Across the street, another house is set for demolition. "I've seen beautiful homes being torn down and replaced with humongous homes that are not in keeping with the neighborhood," Clarke says. "A lot of them are just plain ugly. "

But Thompson, the builder responsible for many of the monster homes in Hinsdale, says: "I've thought of my own houses coming down some day. I don't have a problem with that. Anything can be improved upon."

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ATTACHMENT 2

# A Pictorial Study of Problems with "Story" and "Height of Building" in the Montgomery County Zoning Ordinance


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April 20, 2004

# A Pictorial Study of Problems with "Story" and "Height of Building" in the Montgomery County Zoning Ordinance

I. Introduction

The purpose of zoning in Montgomery County is clearly stated in the Zoning Ordinance. It provides that zoning is:

> for the purpose of ***protecting and promoting the health, safety, morals, comfort and welfare of the present and future inhabitants*** of the district . . . .

Sec. 59-A-1.1 of the Montgomery County Zoning Ordinance (emphasis added). Thus, the Zoning Ordinance does not merely regulate light and air. It also insures current inhabitants that:

1. their neighborhoods will continue to maintain some degree of **visual harmony** and **continuity;** and
2. they will be **safeguarded from neighboring buildings that may ~~impinge~~ upon their comfort, quality of life and property values.** infringe

This is the understood intention of the concern for "morals, comfort, and welfare" stated in the Zoning Ordinance.

**We have no quarrel with the stated intent of the Montgomery County Zoning Ordinance. It was written with the proper aims. It should be applied in a manner consistent with these objectives and rigorously enforced.**

Linna Barnes Carol Lynn Green Sally Kelly Barbara Siegel

4/20/04

However, the language of the Zoning Ordinance is being interpreted and applied in ways that allow construction of overly tall new buildings in older Montgomery County neighborhoods. These buildings often are designed with a combination of features that cause them to loom over existing homes in an older neighborhood. A new building may have a high and multi-gabled roof, large third floor, and lower level exposed above ground level. It may also sit on a manmade terrace, which has been graded up around the building's sides or constructed in front of the building, elevating the first floor of the building well above the ground. **Buildings with these characteristics are not in keeping with the original zoning intent and are, therefore, detrimental to established communities.**

In some cases, these problems occur because the definitions for "Story" and "Height of Building" in the Zoning Ordinance are vague or confusing. The difficulty in applying these technical provisions has been compounded by the absence of any official, written Montgomery County regulation or guideline that describes how to construe the story and height provisions of the Zoning Ordinance. In other cases, these problems occur because changes in building practice and design circumvent the height limitations in the Zoning Ordinance.

In established residential neighborhoods, new infill buildings have exploited the "Height of building" and "Story" definitions and have resulted in:

- Loss of privacy for neighbors, especially in side and rear yards.
- Loss of sunlight.
- Loss of view.
- Loss of mature trees.
- Water runoff and drainage problems.
- Disruption of the established streetscape and neighborhood scale.

- Diminution in the comparative scale of existing homes and a corollary diminution in the property values of existing homes, making them marketable often only as "teardowns".

Each of the above negatively affects the quality of life -- comfort and welfare -- and the property value of neighboring homes. To cure these problems, a Zoning Text Amendment is required to **affirm the original intent** of the Montgomery County Zoning Ordinance with regard to number of stories and building height by clarifying and reinforcing its language and providing several new definitions.

II. A Pictorial Statement of the Problem

Overview. In the R-60 and R-90 Zones, the Zoning Ordinance limits maximum building height to 2 ½ stories and 35 feet. Sec. 59-C-1.327(a).

A. **Story**

Overview. In the R-60 and R-90 Zones, the Zoning Ordinance limits maximum building height to 2 ½ stories (Sec. 59-C-1.327(a)) by reference to the definitions for the terms "story", "half story", "basement", and "cellar". Sec. 59-A. 2.1. The Zoning Ordinance provides that the attic or third floor of a building may be counted as a half story, but only if that portion of the third floor that exceeds 5 feet in height is less than 60% of the floor area of the story below. Sec. 59-C-1.327(a), note 5. Otherwise, the attic or third floor is counted as a full story. The Zoning Ordinance also provides that the lower level will not be counted as a basement and an additional story, but only if 50% or more of the clear ceiling height of that lower level is below adjacent ground. Otherwise, the lower level is counted as a full story. If either of the rules in respect of story is not respected, the building will have too many stories.

**Half Story**: Often the third floor of a new building is not a true half story; it is a full story that has been designed to accommodate one or more rooms with 8'-0" height. See, Appendix, page 1, Photograph* of 6847 Glenbrook Road, Bethesda (third story exceeds 60 percent of the floor of the story below and is not a true half story).

When prefabricated trusses are used and the design provides for a third floor room with full 8-foot height, extra height is needed to accommodate the ceiling height. This extra height is gained through steeply sloped roofs or longer buildings. Whereas a half story used to be 'tucked in' under rafters, designs now call for additional height.

Many trussed roofs are designed today with steep pitches in order to have 8-foot and greater ceilings throughout the attic space. This results in two areas of additional space that are used for the structure of the truss and therefore considered "unoccupiable". The two areas include: i) the lower sides of a gable or hip roof, and ii) the area above the ceiling of the attic. The latter area serves as a second attic above the attic; it is often used for mechanical equipment or storage. These two areas are not being counted toward the allowed "60% of the floor below" established as a limit on the **Half Story,** even though much of these areas meet the standard of being 5- feet or higher. See, Appendix, page 3, Photograph of 2000 Linden Lane, Silver Spring (front view, large roof).

New homes often have large gables built over the primary roof framing. These overbuilt gables, which appear from the exterior to be

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* The photographs were selected simply to illustrate the various problems described herein. There are many other examples of these problems in established neighborhoods throughout Montgomery County.

occupiable space (many have windows to create that effect), are not being counted toward the allowed 60%. This design feature contributes to the problem of newer homes looming over their neighbors. See, Appendix, page 4, Photograph of 4603 West Virginia Avenue, Bethesda (false dormer on roof).

**Basement:** The distinction between cellar and basement ceases to have meaning when the grade around the perimeter of a building can be raised simply by piling up dirt against the foundation walls. This goes against the intent of the Zoning Ordinance and its limit on number of stories.

Regrading can present drainage issues for neighboring properties. On smaller lots with 5 to 8 foot setbacks, regrading establishes steep slopes that will convey run-off into neighboring properties. See, Appendix, page 4, Photograph of 4603 West Virginia Avenue, Bethesda (newly graded steep slope).

In order to avoid being counted as an additional story, a cellar is intended to be truly below grade. Historically, a cellar was not habitable space. A lower level that is only 50.5% below grade functions as an extra story. This also causes problems of compatibility with neighboring homes. Often on new structures, the lower level is so far out of ground that the first floor of the new structure may be at the level of the second floor of the existing home. See, Appendix, page 6, Photograph of 4107 Stanford Road, Chevy Chase (first floor of new structure is above first floor of uphill neighbor).

**Exemptions:** Often, the exemption from height controls for belfries and towers allows for a fourth story of usable space. There is currently no limit on the dimensions of a belfry or tower. Sec. 59-B-

1.1. See, Appendix, page 1, Photograph of 11314 Kenilworth, Garrett Park (tower room exceeds maximum height).

B. **Height of Building and the Granting of Terrace Exceptions**

Overview. The "Height of Building" definition in the Zoning Code establishes a methodology for determining building height. Sec. 59-A-2.1. The definition provides that building height may not exceed the prescribed limit, measured from the approved street grade opposite the middle of the front of a building to the highest point of a flat roof or to the midpoint between the eaves and the ridge of a gable, hip, gambrel, or mansard roof. Thus, for most of the history of the Zoning Ordinance, height has been determined from the front of the building. There is an exception provided for a building that is located on a terrace. If a building is located on a terrace, then the height of the building may be increased by the height of the terrace. The preceding applies to buildings that are set back less than 35 feet from the street. Special rules govern buildings set back more than 35 feet from the street and those buildings located on corners. In the R-60 and R-90 Zones, the maximum height of a building is limited to 35 feet. (Sec. 59-C-1.327(a)) The Zoning Ordinance does not include a definition of terrace.

**Calling a typical grade increase on a typical lot a terrace:** Terrace Exceptions for height are being allowed when there is only a minimal change in grade from the street to the building and when there is no real terrace on the lot. If a small change in grade on a relatively flat lot is considered a terrace, then all lots in Montgomery County become exceptional. This exception engulfs the rule and provides a simple, readily available means for circumventing the 35-foot maximum height allowed in the Zone. When one considers that a

minimal slope of 1:12 on a lot where the set back is 30 feet would result in a 2-½ foot change in grade, granting a terrace to any lot that slopes towards the street goes against the intent of the Ordinance. If it were intended for any slope to be granted the exception, the height definition would be written differently. See, Appendix, page 2, Photograph of 9312 Second Avenue, Silver Spring (is a six inch increase in grade a terrace?)

**Creating a terrace to gain extra height:** Even in circumstances in which a terrace is not a pre-existing feature of a lot, a terrace exception has been granted for a manmade structure, called a terrace. The creation of a manmade terrace in order to gain extra height is inconsistent with the maximum height limits prescribed in the Zoning Ordinance. The practice of allowing manmade terraces should not be allowed.

**Removal of the terrace as a part of the building design:** When a terrace height exception is granted for a pre-existing terrace, it should be because the terrace presents a hardship or impediment to building and therefore, an exception is necessary. However, if the natural terrace is removed from in front of the building, the hardship also has been removed and therefore, the exception should not be granted. See, Appendix, page 5, Photograph of 4107 Stanford Road, Chevy Chase and page 6, Photograph of 7105 Exfair Road, Bethesda (removal of pre-existing terrace).

Conclusion

In order to cure these problems, a Zoning Text Amendment is required to **affirm the original intent** of the Montgomery County Zoning Ordinance with regard to number of stories and building height by clarifying and reinforcing its language and providing several new definitions.

# PICTORIAL APPENDIX

## Photographs* Showing Problems with "Story" and "Height of Building" in the Montgomery County Zoning Ordinance

Linna Barnes Carol Lynn Green Sally Kelly Barbara Siegel

April 20, 2004

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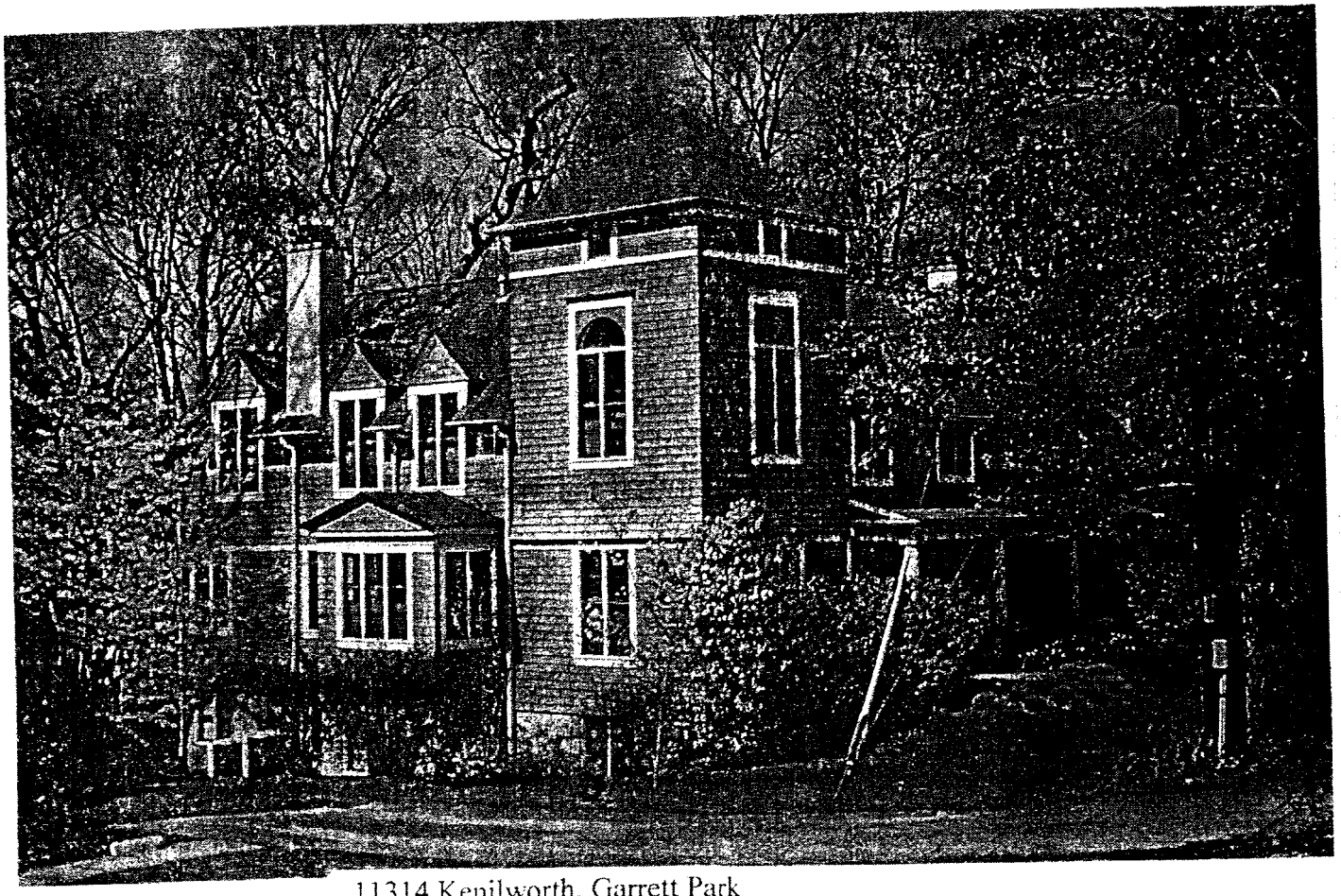
* The photographs were selected simply to illustrate the various problems described herein. There are many other examples of these problems in established neighborhoods throughout Montgomery County.

6847 Glenbrook Road, Bethesda

third Story exceed 60% of floor below, not a ½ story

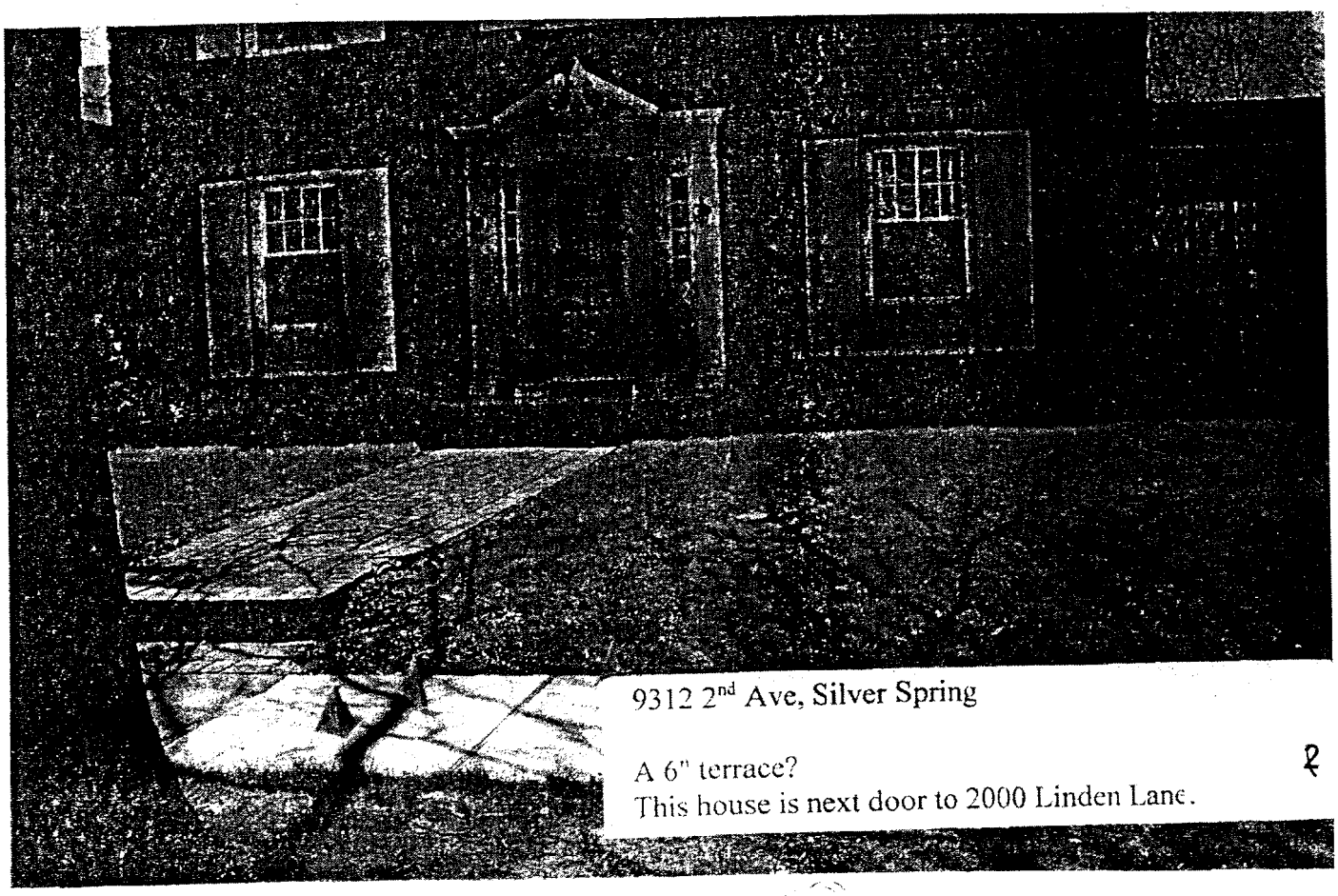


11314 Kenilworth, Garrett Park

Room/tower above maximum height.

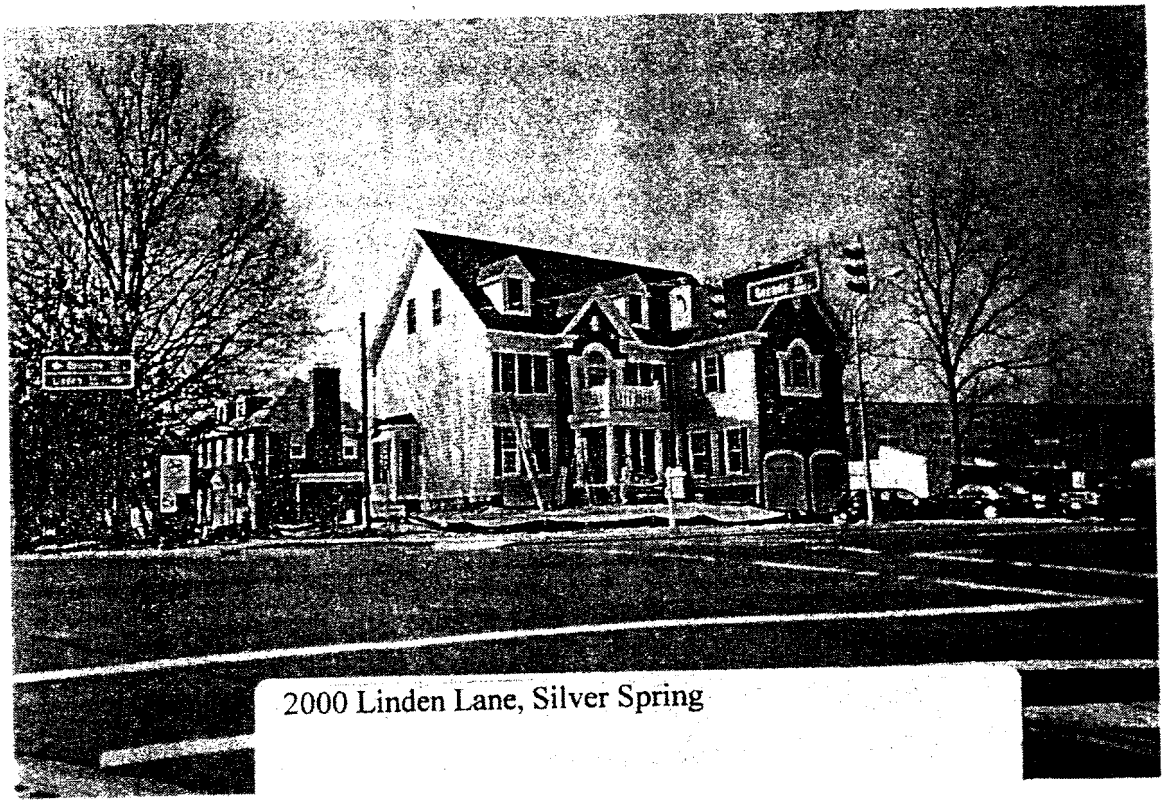
4513 West Virginia Avenue, Bethesda

overbuilt roof/ false dormer

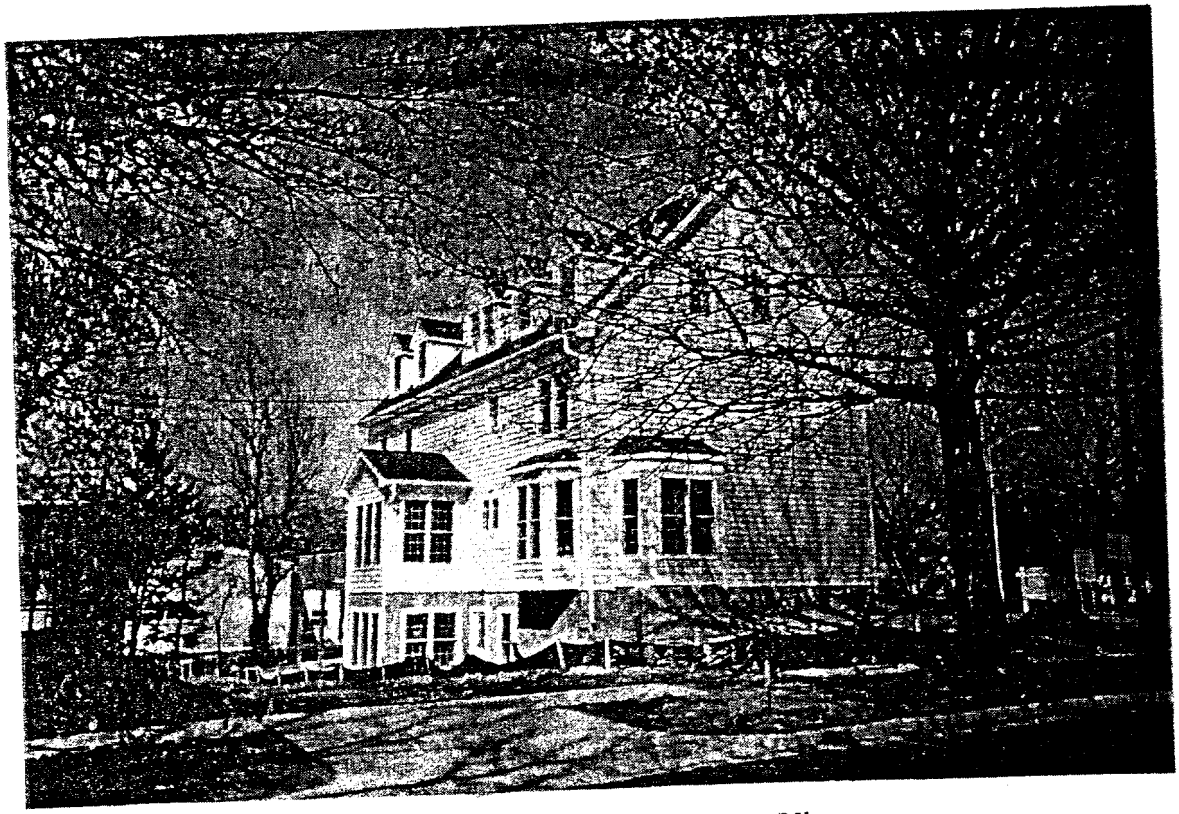


9312 2nd Ave, Silver Spring

A 6" terrace?
This house is next door to 2000 Linden Lane.

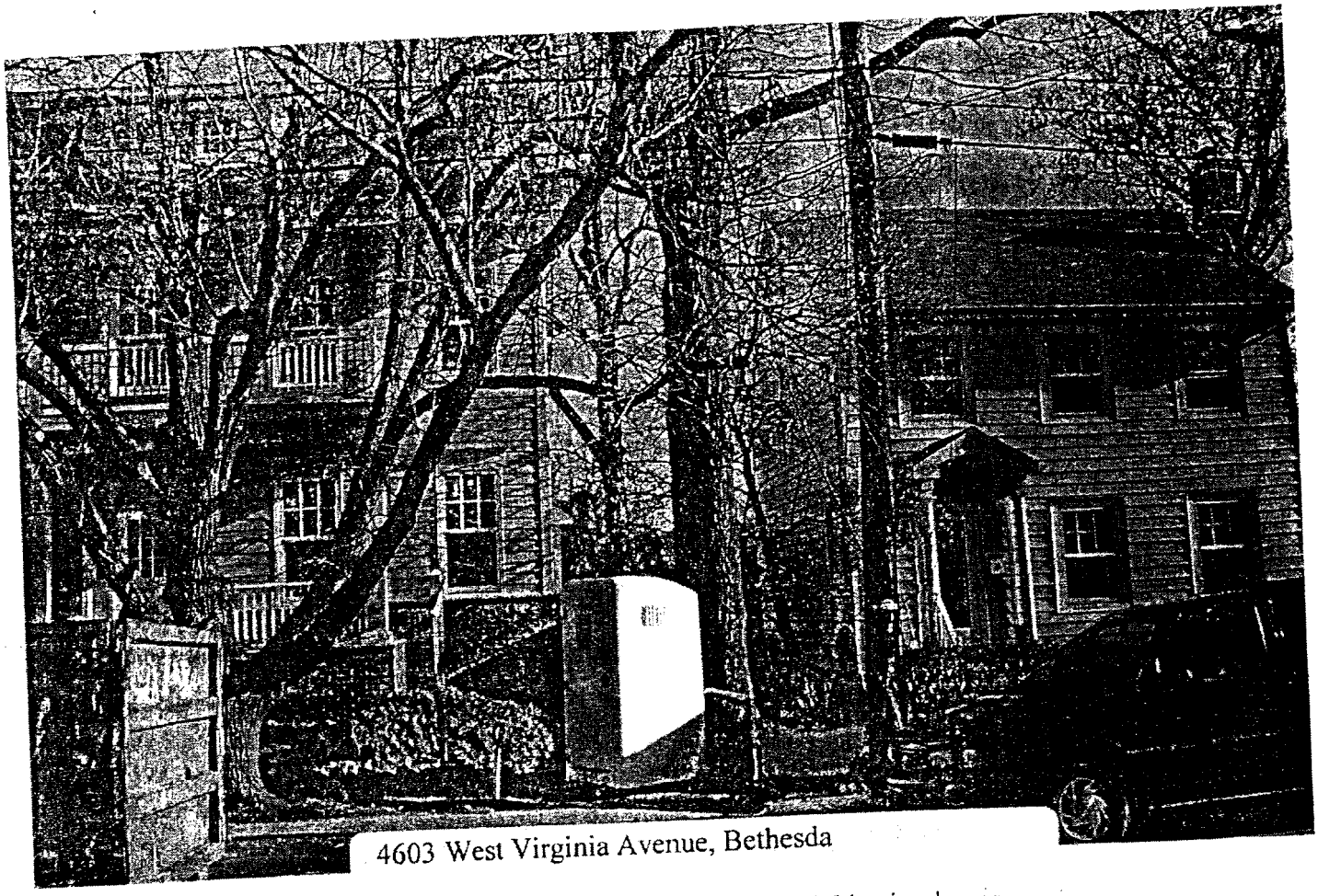


2000 Linden Lane, Silver Spring



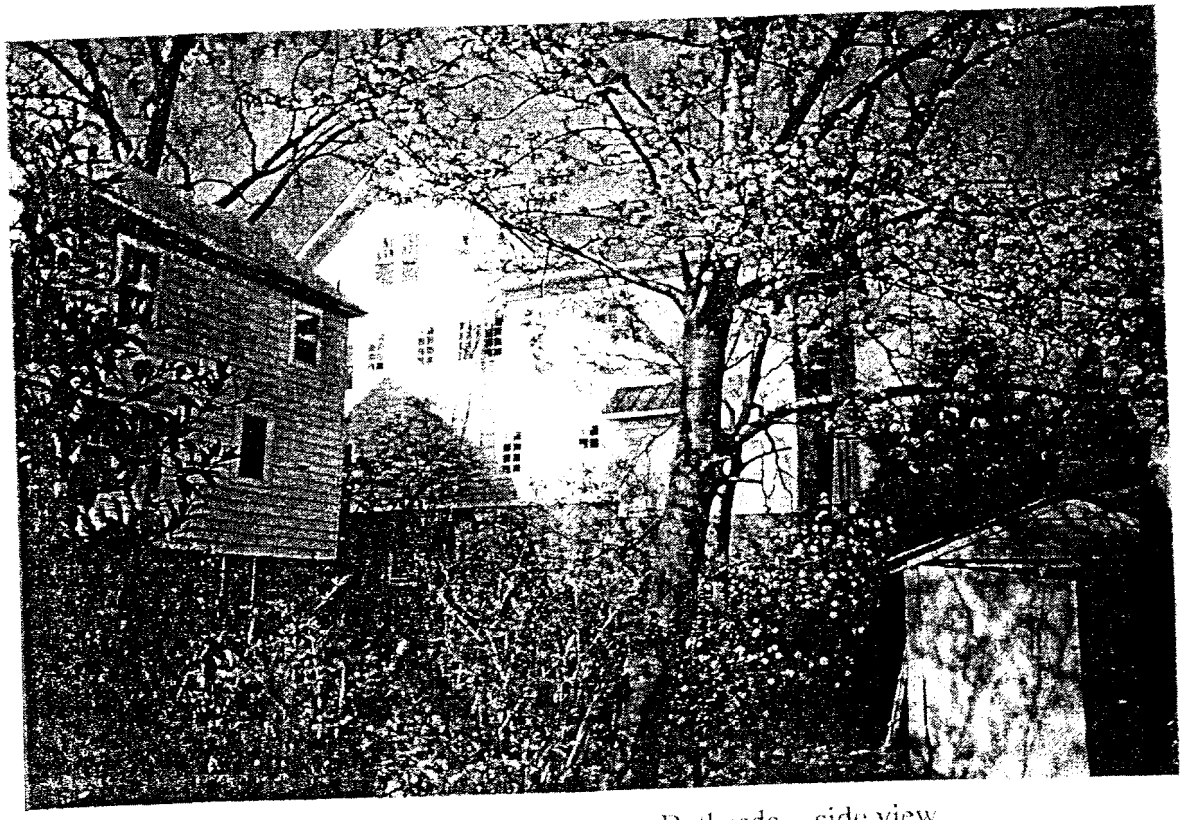
2000 Linden Lane, Silver Spring Front View

Raising the grade in "front" created a higher average across the 'front' (house is slightly more than 35 feet from street on this side) and made the lower level be 'below grade'

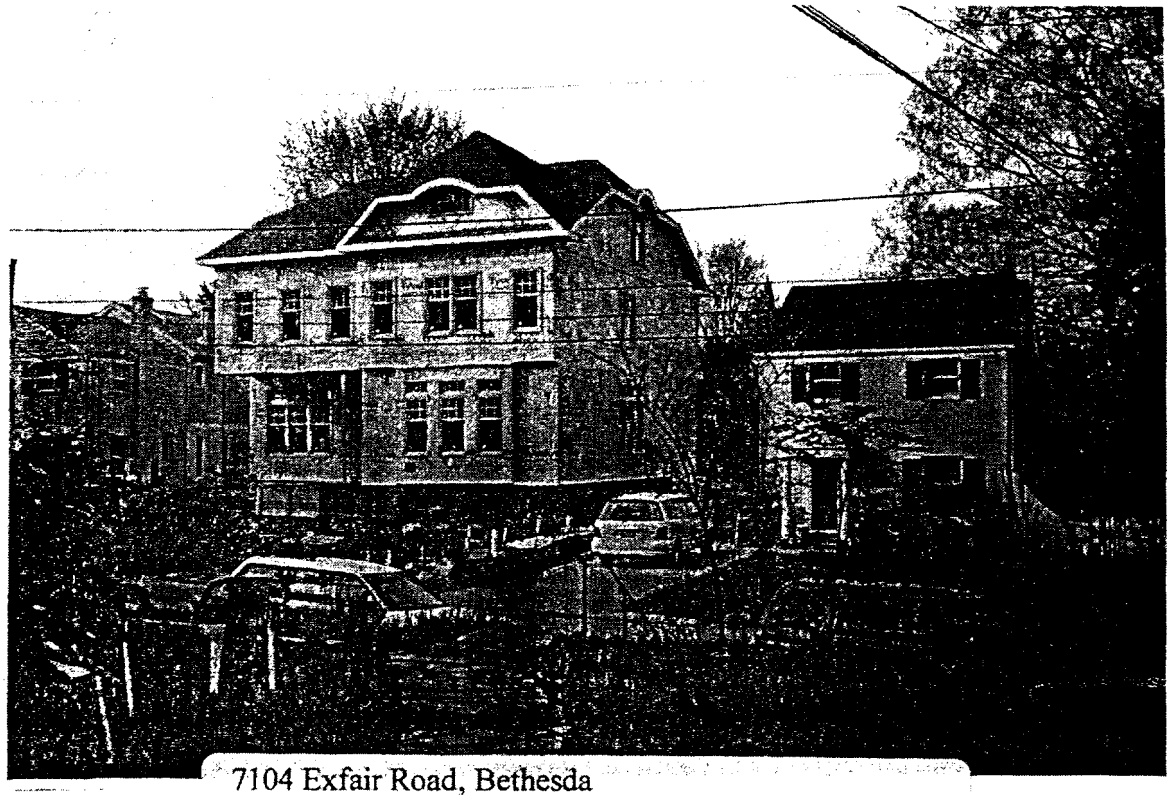


4603 West Virginia Avenue, Bethesda

first floor is much higher than the neighboring house.



4603 West Virginia Avenue, Bethesda, side view

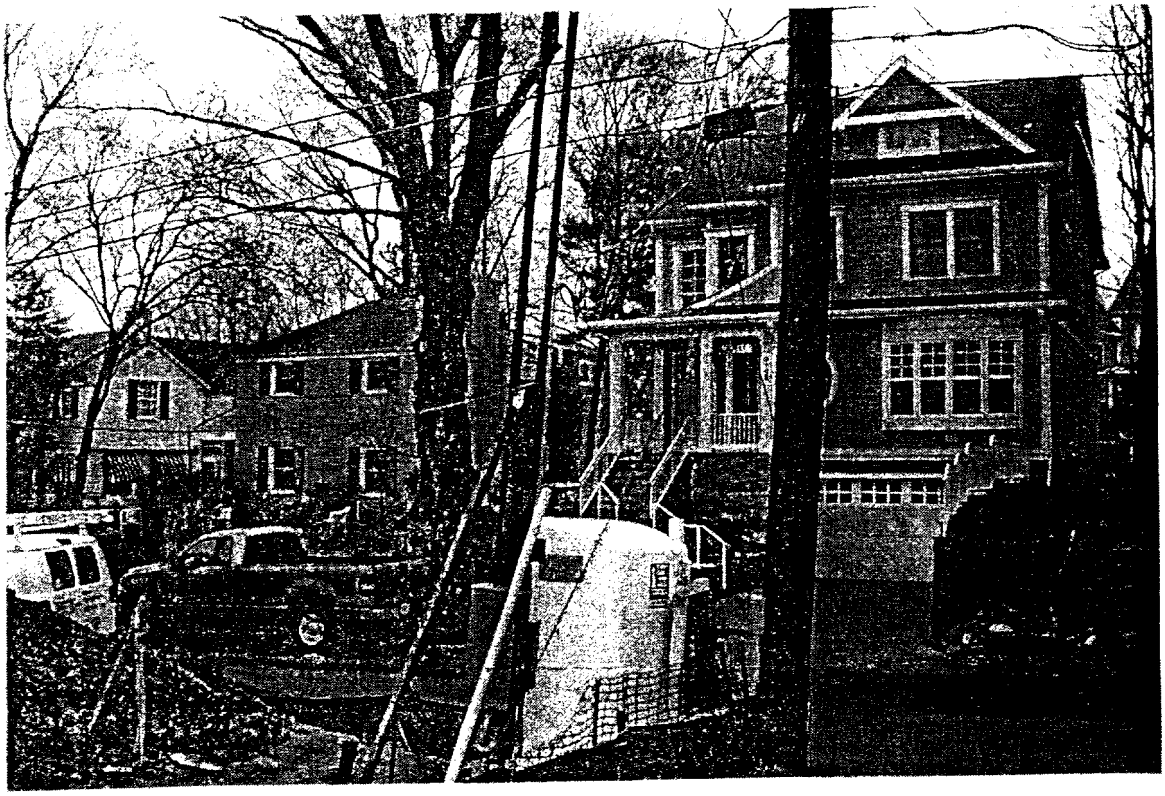


7104 Exfair Road, Bethesda

walk out in both front and rear.

4107 Stanford, Chevy Chase

terrace removed and altered

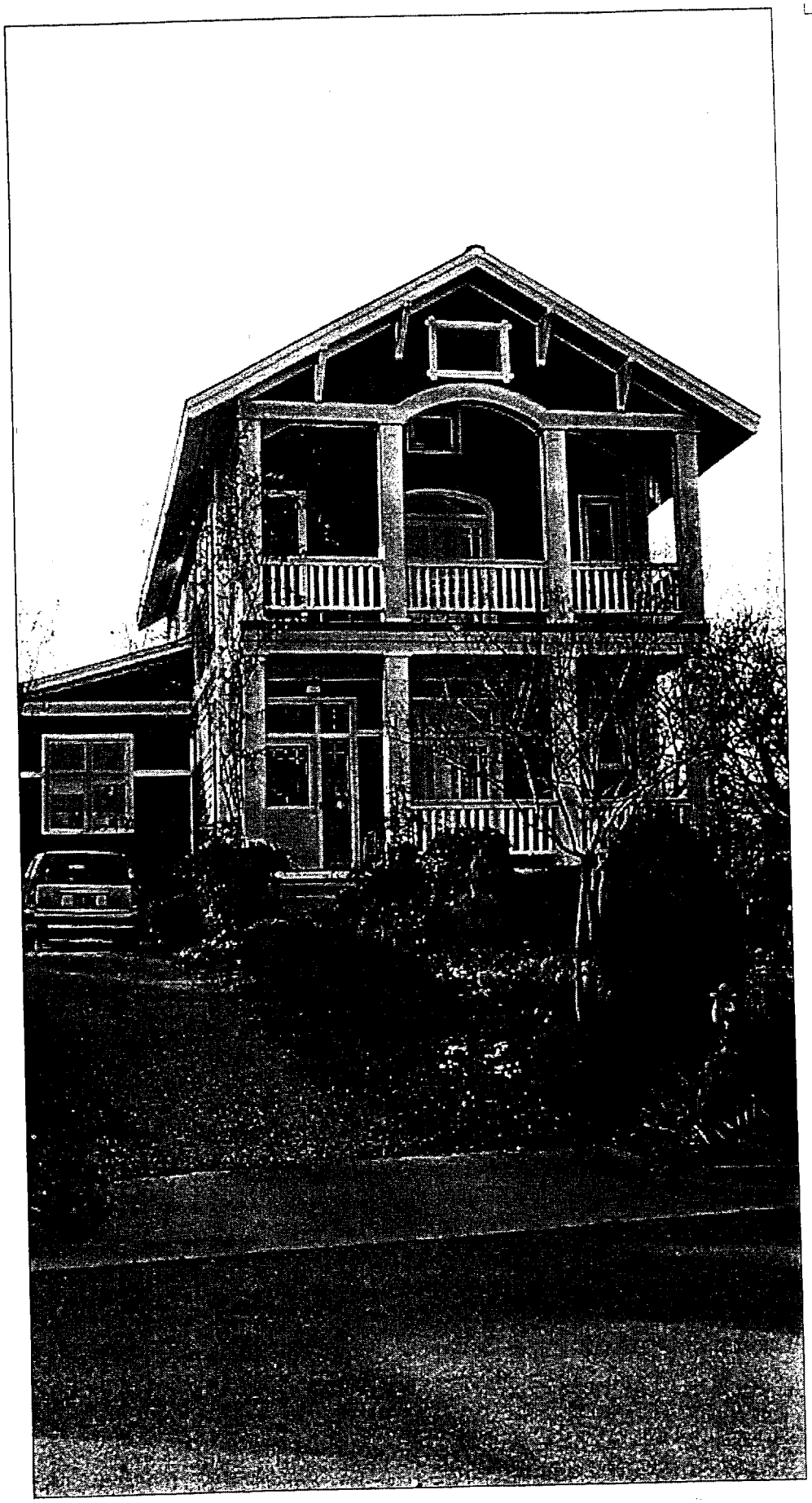


7105 Exfair Road, Bethesda

terrace removed from front

4107 Stanford, Chevy Chase

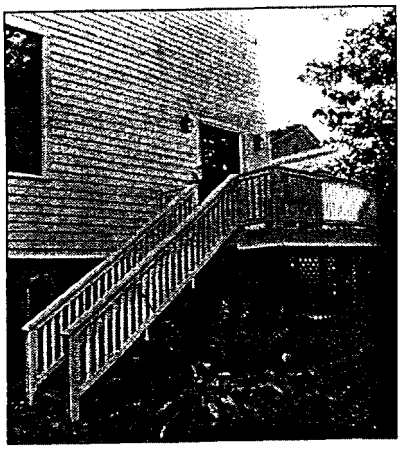
towers above uphill neighbor, terrace removed



Section 4

# Additions and New Construction

# 4.1 Decks



*Wooden decks like these, located on rear elevations with simple balustrades, skirtboards, and lattice infill panels between supports, are appropriate in the historic districts.*

The outdoor deck is a contemporary exterior feature frequently introduced in the residential historic districts. Essentially an uncovered, private version of a back porch, the deck can be compared functionally with a more traditional patio or terrace. To maintain a building's historic character, deck additions are generally located unobtrusively on the rear elevation. Decks are usually built on posts to align with the first-floor level of a residence and can consequently stand considerably above the ground. Like any addition to a historic building, a deck should be compatible with but differentiated from the building and constructed to be structurally independent so that it could be removed in the future without damage to the building. A deck should never be so large that it overpowers the building or the site. Insetting a deck at least 6 inches from a building corner also helps to diminish its impact and differentiate it from the existing building.

## Things to Consider As You Plan

In locating a deck, property owners should always consider the proposed location's impact on the historic structure, the site, and the district. Locations that are visible from the street or that would damage or diminish significant architectural elements or significant site features, such as mature trees, should not be considered.

Because decks are exposed to the elements, decay-resistant woods, such as cypress or redwood, or pressure-treated lumber should be used. Decks may be painted or stained to protect them from water and sunlight and to make them more compatible with the colors of the historic structure. Some pressure-treated wood may require six to twelve months of weathering before primer and paint will bond well to it. Opaque stains are a good option for exposed decks since they do not peel; stains are not an applied film like paint, but rather are a protective treatment that is absorbed into the wood surface. Galvanized nails and fasteners should be used in deck construction to avoid rust stains. If a deck is elevated more than 30 inches above grade, the State Building Code requires a railing or a balustrade for safety.

To relate a deck visually to a historic building, the structural framing should be screened with traditional materials such as skirtboards, lattice, masonry panels, or dense evergreen plantings. Because a deck is a contemporary feature, detailing it to duplicate the architectural detailing of the historic building is usually unwise. Instead, simple balustrades and other elements that reflect the materials and the proportions of the building and the district are appropriate.

## 4.1 Decks: Guidelines

**.1** Locate and construct decks so that the historic fabric of the structure and its character-defining features and details are not damaged or obscured. Install decks so that they are structurally self-supporting and may be removed in the future without damage to the historic structure.

**.2** Introduce decks in inconspicuous locations, usually on the building's rear elevation and inset from the rear corners, where they are not visible from the street.

**.3** Design and detail decks and associated railings and steps to reflect the materials, scale, and proportions of the building.

**.4** In rare occasions where it is appropriate to site a deck in a location visible to the public right-of-way (i.e. the side of a building), it should be treated in a more formally architectural way. Careful attention should be paid to details and finishes, including painting or staining the deck's rails and structural support elements in colors compatible with the colors of the building.

**.5** Align decks generally with the height of the building's first-floor level. Visually tie the deck to the building by screening with compatible foundation materials such as skirtboards, lattice, masonry panels, and dense evergreen foundation plantings.

**.6** It is not appropriate to introduce a deck if doing so will require removal of a significant building element or site feature such as a porch or a mature tree.

**.7** It is not appropriate to introduce a deck if the deck will detract from the overall historic character of the building or the site.

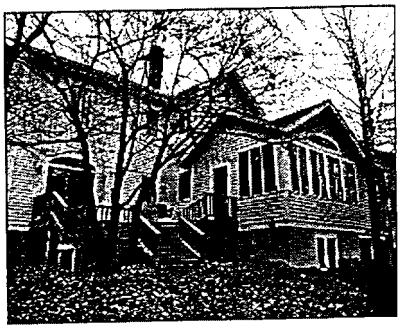
**.8** It is not appropriate to construct a deck that significantly changes the proportion of built area to open space for a specific property.

*A carefully detailed deck stairway.*

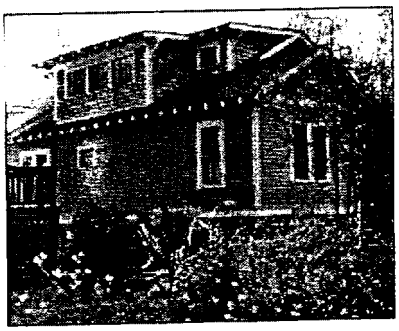
# 4.2 Additions to Historic Buildings

Over the life of a building, its form may evolve as additional space is needed or new functions are accommodated. Many buildings in Raleigh Historic Districts reflect their history through the series of previous alterations and additions that they exhibit. Consequently, such changes are significant to the history of the building and the district. New additions within the historic districts are appropriate as long as they do not destroy historic features, materials, and spatial relationships that are significant to the original building and site. Further, new additions should be differentiated from the original building and constructed so that they can be removed in the future without damage to the building.

*A sensitively designed second-story addition to the front side elevation of this residence projects slightly beyond the screened porch over which it sits.*



*This contemporary rear addition with deck has been successfully differentiated from its principal structure, yet is compatible with the structure in design, materials, and details.*



*This upper floor attic addition echoes the design details of the original bungalow while respecting and retaining the original roof ridgeline and eaves.*

## Things to Consider As You Plan

New additions should never compromise the integrity of the original structure or site either directly through destruction of historic features and materials or indirectly through their location, size, height, or scale. The impact of an addition on the original building can be significantly diminished by locating it on the least-character-defining elevation and by keeping it deferential in volume. It should never overpower the original building through height or size. The form, design, relationship of openings, scale, and selection of materials, details, colors, and features of proposed new additions should be reviewed in terms of compatibility with the original building.

Although designed to be compatible with the original building, an addition should be discernible from it. For example, it can be differentiated from the original building through a break in roofline, cornice height, wall plane, materials, siding profile, or window type.

The impact of an addition on the building site must be considered as well. The addition should be designed and located so that significant site features, including mature trees, are not lost. The size of the addition should not overpower the site or dramatically alter its historic character.

## 4.2 Additions to Historic Buildings: Guidelines

**.1** Construct new additions so that there is the least possible loss of historic fabric and so that the character-defining features of the historic building are not destroyed, damaged, or obscured.

**.2** Design new additions so that the overall character of the site, site topography, character-defining site features, trees, and significant district vistas and views are retained.

**.3** Survey in advance and limit any disturbance to the site's terrain during construction to minimize the possibility of destroying unknown archaeological resources.

**.4** Protect large trees and other significant site features from immediate damage during construction and from delayed damage due to construction activities, such as loss of root area or compaction of the soil by equipment. It is especially critical to avoid compaction of the soil within the drip line of trees.

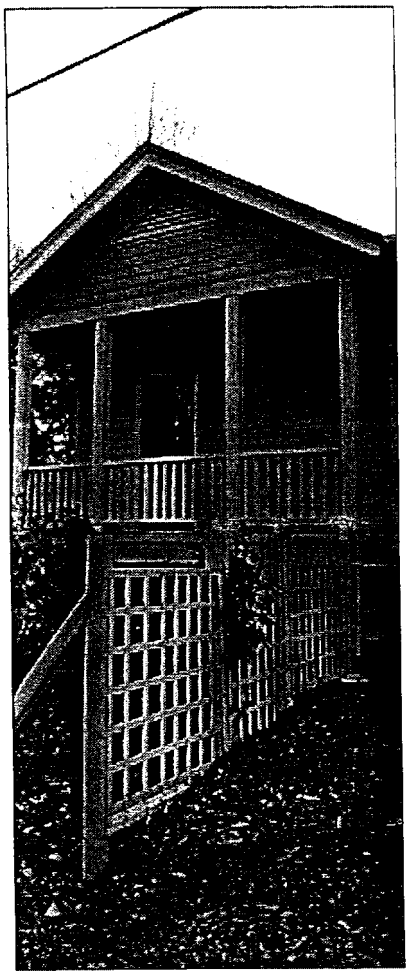
**.5** Locate a new addition on an inconspicuous elevation of the historic building, usually the rear one.

**.6** Limit the size and the scale of an addition in relationship to the historic building so that it does not diminish or visually overpower the building.

**.7** Design an addition to be compatible with the historic building in mass, materials, color, and relationship of solids to voids in the exterior walls, yet make the addition discernible from the original.

**.8** It is not appropriate to construct an addition if it will detract from the overall historic character of the principal building and the site, or if it will require the removal of a significant building element or site feature.

**.9** It is not appropriate to construct an addition that significantly changes the proportion of built mass to open space on the individual site.



*Site features should be considered an integral part of a project when planning additions to buildings.*

# 4.3 New Construction

New construction within a historic district can enhance the existing district character if the proposed design and its siting reflect an understanding of and a compatibility with the distinctive character of the district setting and buildings. In fact, the introduction of a compatible but contemporary new construction project can add depth and contribute interest to the district.

*This new residence achieves compatibility with its Oakwood neighbors through similarities in height, mass, proportion, and materials.*

*The compatible design of this new residence on a corner lot echoes the massing and the details of nearby Queen Anne–style structures.*

*Sensitive siting and massing of the condominium complex at New Bern Place make this large-scale project compatible with the scale and the character of its historic context.*

## Things to Consider As You Plan

The compatibility of new site development with the district setting depends on its compatibility with characteristic district features as well as the retention of the specific site's topography and character-defining site features. The descriptions and guidelines included in Section 2, Site and Setting, should be useful in determining the compatibility of proposed site development within a historic district. The guidelines for various site features, including driveways, fences, lighting, garages, and plantings, apply to both existing site features and proposed development. Because buildings within the historic districts generally display a clear consistency in setback, orientation, spacing, and distance between adjacent buildings, the compatibility of proposed new construction siting should be reviewed in those terms as well.

The success of new construction within a historic district does not depend on direct duplication of existing building forms, features, materials, and details. Rather, it relies on understanding what the distinctive architectural character of the district is. Infill buildings must be compatible with that character. Contemporary design generated from such understanding can enrich the architectural continuity of a historic district.

In considering the overall compatibility of a proposed structure, its height, form, massing, proportion, size, scale, and roof shape should first be reviewed. A careful analysis of buildings surrounding the site can be valuable in determining how consistent and, consequently, how significant each of these criteria is. The overall proportion of the building's front elevation is especially important to consider because it will have the most impact on the streetscape. For example, if the street facades of most nearby buildings are vertical in proportion, taller than they are wide, then maintaining the vertical orientation of the building facade will result in a more compatible design.

A similar study of materials, building features, and details typical of existing buildings along the streetscape, block, or square will provide a vocabulary to draw on in designing a compatible building. Beyond the obvious study of prominent building elements such as porches and storefronts, particular attention should be given to the spacing, placement, scale, orientation, and size of window and door openings as well as the design of the doors and the windows themselves. Compatibility at the building skin level is also critical. Certainly the selection of appropriate exterior materials and finishes depends on an understanding of the compatibility of proposed materials and finishes in composition, scale, module, pattern, texture, color, and sheen. Section 3, Changes to the Building Exterior, also provides pertinent information on traditional materials, features, and details found in the historic districts.

Continued on page 58

## 4.3 New Construction: Guidelines

**.1** Site new construction to be compatible with surrounding buildings that contribute to the overall character of the historic district in terms of setback, orientation, spacing, and distance from adjacent buildings.

**.2** Design new construction so that the overall character of the site, site topography, character-defining site features, trees, and significant district vistas and views are retained.

**.3** Evaluate in advance and limit any disturbance to the site's terrain during construction to minimize the possibility of destroying unknown archaeological resources.

**.4** Protect large trees and other significant site features from immediate damage during construction and from delayed damage due to construction activities, such as loss of root area or compaction of the soil by equipment. It is especially critical to avoid compaction of the soil within the drip line of trees.

**.5** Conform to the design guidelines found in Section 2 regarding site and setting in developing a proposed site plan.

**.6** Design new buildings to be compatible with surrounding buildings that contribute to the overall character of the historic district in terms of height, form, size, scale, massing, proportion, and roof shape.

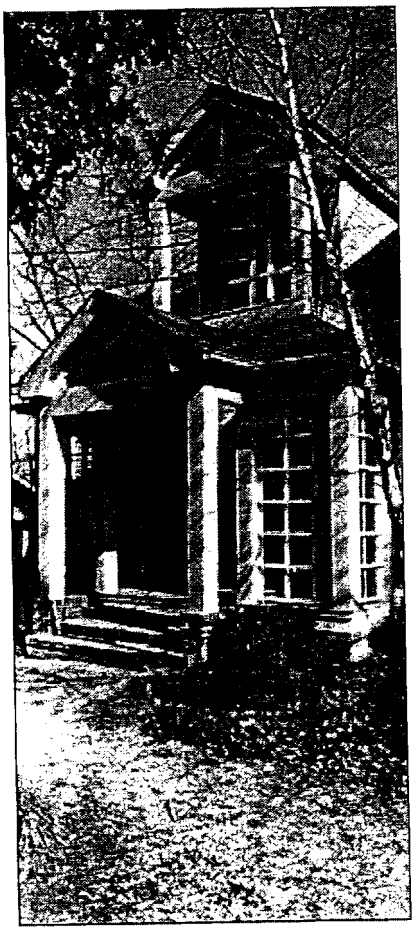
**.7** Design the proportion of the proposed new building's front facade to be compatible with the front facade proportion of surrounding historic buildings.

**.8** Design the spacing, placement, scale, orientation, proportion, and size of window and door openings in proposed new construction to be compatible with the surrounding buildings that contribute to the special character of the historic district.

**.9** Select windows and doors for proposed new buildings that are compatible in material, subdivision, proportion, pattern, and detail with the windows and doors of surrounding buildings that contribute to the special character of the historic district.

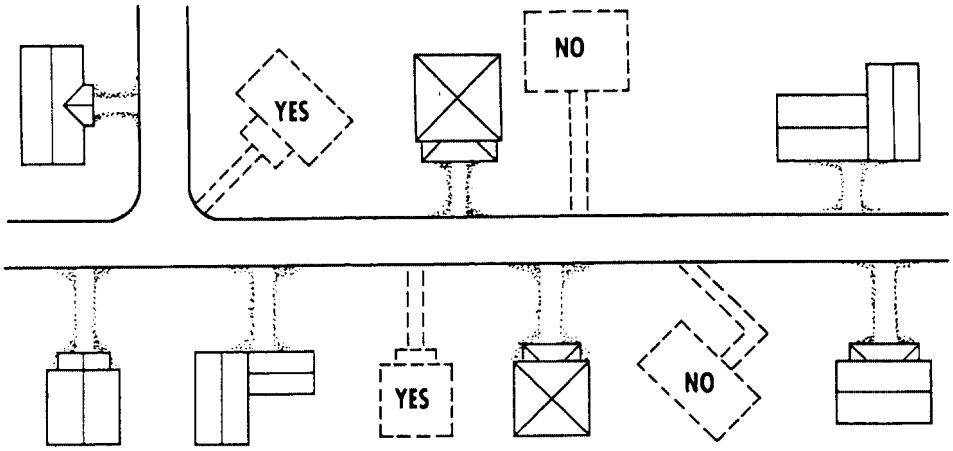
**.10** Select materials and finishes for proposed new buildings that are compatible with historic materials and finishes found in the surrounding buildings that contribute to the special character of the historic district in terms of composition, scale, module, pattern, detail, texture, finish, color, and sheen.

**.11** Design new buildings so that they are compatible with but discernible from historic buildings in the district.

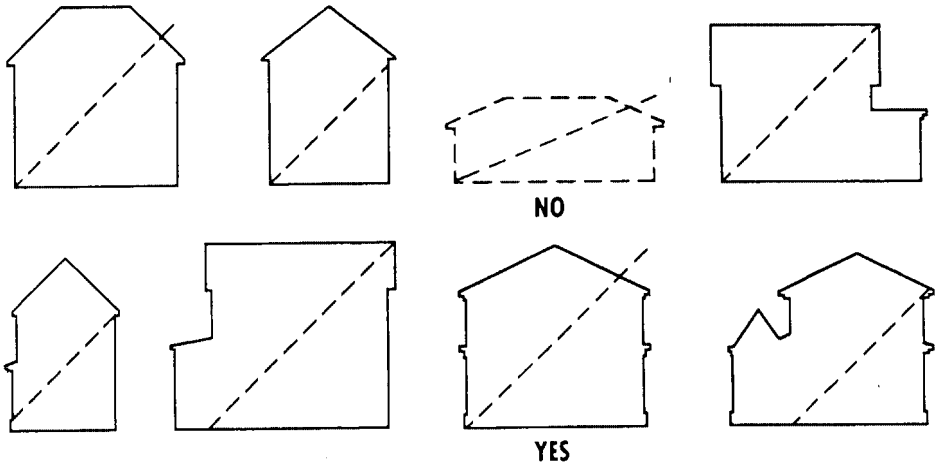


*Compatible contemporary infill.*

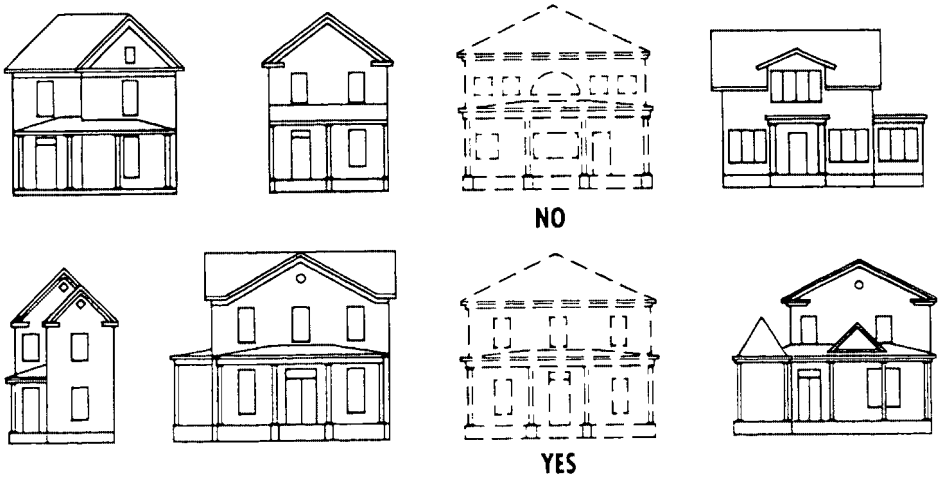
## 4.3 New Construction *Continued from page 56*




*The proposed siting for new buildings should be compatible with the setback, orientation, and spacing of existing district buildings.*




*Proposed new buildings should be compatible in height and proportion of front elevation with surrounding buildings that contribute to the district character.*




*The windows and the doors for proposed new buildings should be compatible in proportion and pattern with the windows and the doors of surrounding buildings that contribute to the district character.*

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SECOND EDITION

NEWS; Pg. 1A

1664 words

# The McMansion next door Teardowns are the bane of many neighbors, but developers call them reinvesting and recycling

EMILY RAMSHAW, Staff Writer

To many homeowners, they're the inevitable result of "teardowns" - monstrous, shadow-casting mansions that dwarf their neighbors, eliminate charm and character, and pave over trees and lawns.

To builders, they're "recycled homes" - market-driven products that raise property values, bolster the city's tax base and replace neglected, deteriorating houses. And the more than 1,500 such dwellings that have cropped up across the city since the late 1990s, many of them in historic areas in North and East Dallas, are responsible for one of the most divisive neighborhood debates in recent memory.

"Builders see it as healthy redevelopment, that they're building a product responsive to what the market wants. And homeowners view it as outside forces coming in and changing the character of their neighborhood," said Neil Emmons, a member of the City Plan Commission. "The hardest part is, we've got people on both sides who truly believe they're doing the right thing."

But while the two parties have clashed for years, City Hall is just stepping into the ring - with a controversial new zoning tool that could allow clusters of homeowners to set the standard for new development in their neighborhoods.

"It's encouraging to see reinvestment. But money shouldn't be the only consideration," said Theresa O'Donnell, the city's director of development. "There's an intrinsic value to neighborhood stability that cannot be measured. And we have to balance those qualities with increases in the city's revenue base."

As newlyweds, Alexis Adams and her husband moved into a rental close to White Rock Lake. Two decades later, they bought and renovated their family's "dream house" - a comfortable one-story ranch on a park-like street in Lakewood Heights.

The first teardowns in their neighborhood were few and far between, and unannounced until a bulldozer showed up in a driveway. But in the last several years, Ms. Adams said, the community has entered a negative transformation, as one after another, quaint, historic homes have been razed to make room for multistory monoliths.

"I can understand why people like it here - the proximity to downtown, the established neighborhood, the trees, the space. It's why we live here," she said. "But we're starting to lose what made it so popular in the first place."

It's not that homeowners are against new development. If a house is beyond repair, Ms. Adams said, it ought to go. But she blames the builders, some of whom she says are so blinded by dollar signs that they won't design something compatible with the neighborhood.

"They don't care what they leave behind," she said.

And despite increasing property taxes, a result of "McMansions" raising average home values, Ms. Adams doesn't hold a grudge against her new neighbors - even though the effect on the community has been more millionaires and less diversity, she said.

"It feels like we're up against the clock and on the losing side," Ms. Adams said. "This is where we live. This is our home. And we want to be able to preserve what we worked so hard for."

Nothing lasts forever

Chuck Barnett builds custom homes, the luxury residences many people flee to the suburbs for. And he builds them within the city limits - on the sites of former houses in Preston Hollow, Lakewood and Lakewood Heights.

But he said the homes he replaces aren't historic structures. They're beat up, neglected and often riddled with code violations. And while many of the neighborhoods he works in have gone through a decline, Mr. Barnett said, fixing them up gives more Dallas residents an opportunity to live up to their standards closer to the city's center.

"I've never taken one down that I would live in or have my family live in," Mr. Barnett said. "And regardless of whether we're replacing these homes today or 50 years from now or 100 years from now, they're not built to last forever. At some point in time, it's the natural progression that inventory has to be improved or recycled."

The evolution of Dallas' older neighborhoods is good for the people who live there and good for the city as a whole, Mr. Barnett said. Property values rise. The community's renter-to-owner ratio falls. And the city's tax base increases - a result of growing sales tax and property tax revenues, he said.

And he said builders are being unfairly targeted for exercising their property rights and providing homes that fit the size, scale and design the market dictates.

"I can drive through neighborhoods and see homes built in the 1930s and '40s with 21/2 stories, four and five bedrooms, and 4,000 square feet that fit in great," he said. "Why is this a new issue?"

Unhappy neighbors

Amy Maxson and her husband fell headfirst into the teardown debate when they and their young children moved into a rebuilt home on East Dallas' Goliad Avenue.

"There were definitely those that were not happy," Ms. Maxson said of her neighbors, whom she said made it clear the house was an intrusion.

Ms. Maxson sees the rebuilt homes in her community as good replacements for neglected, age-worn houses. And she said it's nice to see some of the developers "building homes more characteristic of those that were here before."

"I wish ours was," she said.

Dallas is at the front end of rebuilding everything south of Interstate 635, said Ken Lampton, a RE/MAX real estate agent who has sold homes in Lakewood and on East Dallas' M Streets since 1985. And this isn't the only time the city will have to address teardowns, which he said started in the Park Cities in the late 1970s and spread out "like a blot of ink on a tablecloth."

"Cities all over the U.S. are going to have to face the fact that we have this new phenomenon," he said. "We kind of have to experiment. We have to do trial and error."

Possible solutions

Finding a long-term solution to the teardowns debate will probably involve changing the city's zoning code, which could take a few years, Ms. O'Donnell said. Putting a moratorium on them is out of the question. And two other zoning tools - conservation districts and historic districts - are time-consuming and tedious to implement, she said.

But in the short term, city staffers and representatives on both sides of the fence have come up with a potential solution: a neighborhood stabilization overlay.

As proposed, residents who want to preserve certain qualities on their block or in their neighborhood could, with support from a majority of homeowners, regulate height, garage location, front and side yard setbacks and paved surface of future construction.

And during a neighborhood's wait for the overlay's approval, builders would be forced to get development plans approved by the city, an attempt to protect homeowners from incompatible projects in the interim.

"Builders would have the burden for one year and could continue to build as long as it's compatible," Ms. O'Donnell said. "This maintains the status quo, so change can happen in a controlled way."

If the City Council passes the overlay, the burden on the builder won't be temporary, Mr. Barnett said. And he said it could seriously impact the city's tax revenue over the next several years.

"It would certainly slow, if not totally stop, redevelopment in existing neighborhoods," he said. "Redevelopment requires large private investment, and it requires patience. This would discourage a lot of people from making that

investment."

City planners are well intended, said Carol Scott, a real estate agent who serves on the City Plan Commission and the Zoning Ordinance Advisory Committee - the body currently studying the proposal. But in her mind, the overlay is nothing short of a residential moratorium.

"It's the same effect," she said. "And considering the number of residents who could be affected, any change to the Dallas Development Code needs to be carefully considered."

While Dallas' building boom may seem like a positive trend, real estate agent Lampton remembers a similar boom on Lower Greenville Avenue in the early 1980s - one that ended in foreclosures.

Some hurdles need to be put in place to slow the process, he said, so that rising land prices and competitive builders don't force ordinary home buyers out of the market.

"There are plenty of people who want to come in and buy the older homes, but now they have to compete with the builders," he said. "You're creating this dangerous situation where too small a population of interests is competing in the marketplace. And that could leave the neighborhoods vulnerable to a terrible price collapse."

The overlay still needs some tweaking, said council member Lois Finkelman, who lives "within spitting distance" of six residential teardowns. But in whatever form it's approved, it would "allow neighbors to determine for themselves what's appropriate," she said.

"I don't want to put overly restrictive limits on property rights," she said. "But everyone needs a breather."

Varied reactions

For Ms. Scott, the whole teardown debate seems like a runaway train. In the Preston-Citadel area where she lives, 67 new homes went up with no complaints, she said.

"I've got 70,000 people in my district, and so far, I've only heard from a small number," she said.

But when Beth Bentley walks through her Vickery Place neighborhood, she has the opposite reaction. She wants to cry.

The community has been irreparably damaged, she said - by the massive homes that cover lots with pavement, block out the sunlight and eliminate any semblance of privacy.

"I'm resentful. I feel like it's not the cute little neighborhood I moved into," said Ms. Bentley, whose home has been in the family since the 1920s. "So much has already been lost."

Ms. Bentley and her neighbors aren't going to wait for the overlay. They'll learn whether they qualify for conservation district status in September, she said, and they feel that's the only surefire way to address the teardowns.

"Time is of the essence," Ms. Bentley said. "It's gained so much steam that I'm not sure we can stop it. But we're going to try."

E-mail eramshaw@dallasnews.com

PHOTO(S): (1-3 Photos by JIM MAHONEY/Staff Photographer) 1. Crystal Collins, who lives across Goliad Street from a teardown, says she would like the neighborhood to be preserved. Dallas is considering allowing neighborhoods to regulate and preserve certain qualities. 2. New houses dwarf an older home in the 5700 block of Llano Avenue, a neighborhood in East Dallas where developers are demolishing older places for more expensive dwellings. 3. Jose Guadalupe works on a house near Vickery Boulevard and Abrams Road in East Dallas. Although Dallas' director of development, Theresa O'Donnell, is encouraged by redevelopment, she says: "There's an intrinsic value to neighborhood stability that cannot be measured. And we have to balance those qualities with increases in the city's revenue base." CHART(S): (1-2 TOM SETZER/Staff Artist) 1. DALLAS TEARDOWNS. 2. DALLAS' DEMOLITION DERBY.

May 2, 2005



(45)

**Attachment 5**



washingtonpost.com

# Homes As Hummers

By Robert J. Samuelson
Post
Wednesday, July 13, 2005; A21

We Americans seem to be in the process of becoming wildly overhoused. Since 1970 the size of the average home has increased 55 percent (to 2,330 square feet), while the size of the average family has decreased 13 percent. Especially among the upper crust, homes have more space and fewer people. We now have rooms specialized by appliances (home computers, entertainment systems and exercise equipment) and -- who knows? -- may soon reserve them for pets. The long-term consequences of this housing extravaganza are unclear, but they may include the overuse of energy and, ironically, a drain on homeowners' wealth.

By and large, the new American home is a residential SUV. It's big, gadget-loaded and slightly gaudy. In 2001 about one in eight homes exceeded 3,500 square feet, which was more than triple the average new home in 1950 (983 square feet). We have gone beyond shelter and comfort. A home is now a lifestyle. Buyers want spiral staircases and vaulted ceilings. In one marketing survey by the National Association of Home Builders, 36 percent of buyers under age 35 rated having a "home theater" as important or very important.

Of course, homeownership (now a record 69 percent) symbolizes success in America. The impulse to announce more success by having more home seems to span all classes. In his book "Luxury Fever," Cornell University economist Robert Frank noted that Microsoft co-founder Paul Allen built a 74,000-square-foot house. According to Frank, that roughly equaled the size of Cornell's entire business school, with a staff of 100. Frank sees a "cascading effect" of imitation all along the social spectrum. The super-wealthy influence the wealthy, who influence the upper middle class -- and so on. People constantly enlarge their notion of "what kind of a house does a person like me live in."

Another cause of this relentless upsizing is that the government unwisely promotes it. In 2005, about 80 percent of the estimated $200 billion of federal housing subsidies consists of tax breaks (mainly deductions for mortgage interest payments and preferential treatment for profits on home sales), reports an Urban Institute study. These tax breaks go heavily to upscale Americans, who are thereby encouraged to buy bigger homes. Federal housing benefits average $8,268 for those with incomes between $200,000 and $500,000, estimates the study; by contrast, they're only $365 for those with incomes of $40,000 to $50,000. It's nutty for government to subsidize bigger homes for the well-to-do.

But otherwise, why shouldn't Americans buy what they can afford? No good reason. The trouble is that freedom doesn't confer infallibility. With hindsight, some homeowners may regret sinking so much money into ever-grander houses. One possible problem is future operating costs. Homes exceeding 3,500 square feet use about 40 percent more energy than those between 2,000 and 2,500 square feet, says the Energy Information Administration. Suppose electricity or natural gas prices rise because (for example) new power plants or terminals for liquefied natural gas aren't approved.

A harder question is whether bigger homes might lose value. Say what? Gosh, we're in the midst of the

greatest real estate boom in U.S. history. Since 2000 home values have risen 55 percent, to nearly $18 trillion, says the Federal Reserve. Americans have borrowed and spent lavishly against rising housing prices. That has kept the U.S. and world economies advancing. Americans increasingly believe that they can't lose by investing more in their homes: They can enjoy themselves and make a pile.

But booms have a habit of imploding. The latest evidence that cheap credit and speculation have artificially inflated home prices comes from a study by the investment bank Credit Suisse First Boston. It finds that home buying is increasingly driven by purchases of investment properties and vacation homes. In 2004 these buyers accounted for 14.5 percent of all home sales, up from an average of 7.5 percent from 1998 to 2002. Cheap credit also abounds. In 2004 almost a fifth of all new mortgages were interest-only loans (requiring no principal repayments in early years), the study finds. Speculative booms usually end when some speculators cash in or when credit tightens.

Even if home prices don't collapse, their long-term performance may disappoint. In a new edition of his book "Irrational Exuberance," Yale economist Robert J. Shiller, who accurately diagnosed the stock "bubble" of the 1990s, examined home prices since 1890. His startling conclusion: After adjusting for inflation, home prices rose only 0.4 percent annually through 2004. After periods when they've outpaced inflation -- say, right after World War II -- home prices slow down. Their recent surge is, by Shiller's figures, unprecedented. The implication is that prices may soon enter a period (after inflation) of stagnation or decline. That would probably preserve big gains for longtime homeowners, though perhaps not for the 22 million who purchased in the past three years.

As Shiller notes, home prices can't rise too much faster than average incomes for too long without excluding many buyers from the market. Among home builders, realtors and economists, the dominant view seems to be that the housing market is basically sound. Younger families and immigrants underpin demand. Some local "bubbles" may pop; elsewhere, price increases may subside. One way or another, Americans might want to reassess whether their passion for ever-bigger homes is good for them and the nation. Do we need to go from SUVs to Hummers? Maybe we should revert to sedans.

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- Nat. Alliance of Preservation Commissions

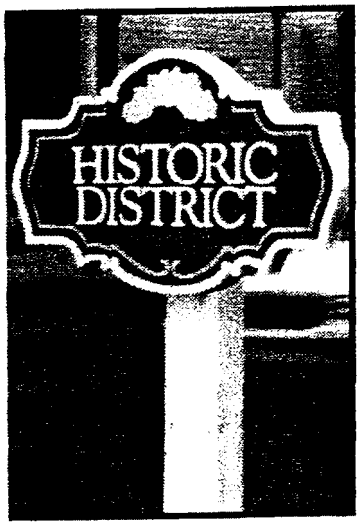


Attachment 6

# NEIGHBORHOOD CONSERVATION DISTRICTS

*Julia H. Miller*

Increasingly, local jurisdictions are turning to conservation districts in an effort to address neighborhood development concerns-whether mansionization, the proliferation of vacant parcels and parking lots, disinvestment, or commercial encroachment. Through the use of a preservation-based design review process and/or special development concerns, conservation districts offer an alternative mechanism for protecting older, residential neighborhoods that may not qualify for historic district status. Conservation district programs have been established to stabilize existing neighborhoods, as in Nashville, to increase or preserve the supply of affordable housing, as in Phoenix, and to revitalize close-in neighborhoods, as in Davis, California.




*Community pride may help a district thrive, but lacks the necessary authority of law.*
*NAPC file photo*

**What is a Neighborhood Conservation District?**
Neighborhood conservation districts are areas located in residential neighborhoods with a distinct physical character that have preservation or conservation as the primary goal. Although these neighborhoods tend not to merit designation as a historic district, they warrant special land use attention due to their distinctive character and importance as viable, contributing areas to the community at large.

As with historic preservation, there is no "one size fits all" conservation district program. Each conservation district must be tailored to respond to the concerns of the neighborhood seeking protection. Some conservation district programs focus on design review issues, some focus on planning/zoning/development issues, and some focus on both. The difference in focus can be attributed to the goals of the conservation district program overall and the concerns of the community seeking conservation district status. Some conservation district programs are housed in historic preservation offices while others are administered through the planning department.

Conservation districts based on a preservation model focus on protecting the character of older neighborhoods that cannot meet the standards for historic designation or would otherwise remain unprotected due to lack of political support. See, e.g. Napa, California. Conservation districts based on a planning model are typically broader in scope. They may address development issues such as height and scale, design issues to some extent, and either promote or discourage certain kinds of uses such as parking lots. The underlying objective may be, for example, to retain affordable single-family housing or prevent encroachment by neighboring commercial centers, per se. See, e.g. Boise, Idaho. They may also be adopted in residential areas, commercial areas, mixed use areas, and so forth.

In recent years, there appears to be a blending of the two types of conservation districts, especially in residential communities. For example, the newly-enacted M Streets Conservation District in Dallas includes both development and architectural standards. Indeed, it is interesting to note that conservation districts are being used increasingly as a measure to address mansionization. (See, e.g. Dallas, Boulder, and Atlanta, to name a few.)

**How are Neighborhood Conservation Districts Established?**

The primary mechanism for establishing conservation districts is the "neighborhood conservation district ordinance." As with historic preservation ordinances, authority to enact conservation district laws comes from power delegated to local communities through state enabling law or home rule authority. In some cases, the authority to establish conservation district programs is derived from historic preservation enabling laws. In other situations, authority may come from an express delegation of authority to enact conservation districts, home rule authority or implied through a broad grant of zoning authority.

Depending upon the particular circumstances within a community, a conservation district may be established as an overlay or a stand-alone zoning district. An overlay places restrictions and/or conditions on development in a specific geographic area in addition to those already in place by the underlying zoning classification. Stand-alone zoning districts combine the underlying zoning restrictions with the specific goals of an overlay into a single district. Both types of districts can address elements such as height, bulk, design, historic preservation, traffic and transportation needs, tree protection, and other factors necessary to address the concerns and desires of a particular neighborhood.

Authority to adopt neighborhood conservation districts is generally accomplished through the adoption of a local enabling ordinance. Individual conservation districts are subsequently established in accordance with the procedures and standards contained in the enabling ordinance. In communities that operate a conservation district program in conjunction with a historic preservation program, there may or may not be a distinction between the two in terms of criteria for designation. In Nashville, for example, the criteria for designation are the same. It is the standards of review that vary. In Cambridge, Mass., on the other hand, a conservation district is an area that has distinctive character but cannot qualify for designation as a historic district. It contains structures that together "constitute a distinctive neighborhood or have a distinctive character in terms of exterior features." While new construction, demolition, and alterations to exterior architectural features require approval in Cambridge, only actions governing demolitions, the construction of new buildings and additions, and the construction of parking lots as a principle use are binding. In Nashville, changes are reviewed by the historic preservation commission. In Cambridge, changes are reviewed by a neighborhood conservation district commission, whose members include three residents of the neighborhood, not less than two of whom must be homeowners; one neighborhood property owner (who may or may not be a neighborhood homeowner); and one member or alternate of the Cambridge Historical Commission.

An increasing number of conservation district programs are housed in planning departments and are administered by neighborhood conservation district commissions based on a neighborhood-specific plans for residential areas. The plan usually, but not always, includes architectural review standards, which are often preservation-based. Similarly, there is also a high emphasis on neighborhood-initiated designations and development controls. Thus, in contrast to historic districting, conservation districting is increasingly accomplished by neighborhood consensus and the standards of review are neighborhood-based. See, e.g. Dallas and Boulder. In some cases, review may be mandatory but compliance is optional. See Atlanta.

**Gauging A Program's Success**

Many neighborhood conservation district programs are just taking root and thus their effectiveness as a neighborhood preservation tool cannot yet be gauged. The initial reports, however, look promising. What most experts agree on at this point is that good neighborhood programs don't just happen. They require ample research on the problems and solutions faced by a neighborhood, effective communication and consensus, and

the development of controls, whether preservation or planning-based, that respond to the needs of the neighborhood seeking protected. Compromised solutions may or may not work. For example, Floor Area Ratio (F.A.R.) restrictions may be effective in restricting the size of houses but may not necessarily produce compatible development. Some level of design review may also necessary. Correspondingly, some restrictions may become so complex or cumbersome to administer that affordable housing goals in older neighborhoods become thwarted rather than encouraged. Other nagging questions include whether neighborhood commissions make good decision-makers? Can they meet the due process requirement of providing a fair and reasoned decision? Is historical architecture being compromised by inadequate protection? Is flexibility an asset?

As with any regulatory tool a conservation district program can be effective if the right questions are asked and the answers respond to the specific concerns of the community seeking protection. Whether a conservation district program is right for a particular community, however, must be determined by that community alone.

*[Julia Miller, along with Rebecca Lubens, a summer legal intern at the National Trust, have written a more extensive article on conservation districts entitled "Protecting Older Neighborhoods Through Conservation District Programs." This article will appear in the next issue of the PRESERVATION LAW REPORTER.]*

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